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ABSTRACT

The papers presented in this volume are the result of a conference designed to assist school personnel in understanding and developing plans to eradicate sex discrimination in schools. The works included are: "The Subtleties of Sexism: A Short, Short Story," by Sharon B. Lord; "Legal Ramifications and Concepts of Title IX," by Charles E. Guerrier and Barbara Kaye Besser; "Title IX, or Be Nice to Uncle Sam's Nieces, or Are Reproductive Organs Relevant for Education?" by Bernice Sandler; "Title IX: The Basics," by Frances Dodson Rhome; "Title IX: Employment Practices, Grievance Procedures and Other Administrative Concerns," by Richard A. Boyd; "Girls Athletics: A Question of Priorities," by Patricia Roy; "Title IX and the Guidance Counselor," by Joanna Allman; "Kojack Revisited: The Nature and Costs of the Male Sex Role Stereotype," by David Sadker; and "A Technique to Assess Title IX Implementation in a Selected School Corporation," by Judy Hummel, Terry Ogle, and Frank Aquila. Also included are a summary of the regulation for Title IX, a Title IX compliance checklist, and a list of Title IX amendments. (MK)

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A Quest for Equality: Title IX, The Second Year

Proceeding of the
Indiana University
General Assistance Center's
Title IX Conference
January 19-20, 1977
Indianapolis, Indiana

Editors:
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INTRODUCTION

> "No person...shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance..."
> Title IX Education
> Amendments of 1972

On January 19-20, 1977 the Indiana University General Assistance Center, an arm of the College of Education, sponsored a two-day conference, "Title IX: The Second Year." The site for this program designed to assist school personnel in understanding and in developing action plans to eradicate sexual discrimination was the Marriott Inn in Indianapolis, Indiana.

The format of the conference allowed for the face-to-face exchange of ideas between persons involved both in research, development and evaluation in regard to Title IX. The conference served to stress the importance of continuing developments in the field. Major addresses by recognized leaders reflected the current "state of the art," while the workshop and seminar sessions encouraged the participants not only to become actively involved in the various discussions but also to plan for the implementation of new techniques and practices in their home setting.

The Conference sessions began on January 19 with a dinner and keynote address and continued through January 20 with a variety of concurrent sessions. Sessions included the following topics: Title IX: The Basics; Title IX: Employment Practices; Title IX: The Coordinator's Role; Stereotypic-Teaching Behavior; The Athletic Arena and Title IX: Legal Aspects and Ramifications of Title IX; Textbook Evaluation; and the Guidance Personnel and Title IX. The papers included herein represent summaries of many of the topics discussed in the various session as well as several related articles included to add an additional dimension to the publication. Articles have been presented intact, with only minor editing. They range in tone from informal presentation to articles which are soon to appear in journals. The intent of the editors was to present a clear summary of the major issues and concerned discussed at this conference.

Frank Aquila
Judy Hummel
May, 1977

THE SUBTLETIES OF SEXISM: A SHORT, SHORT STORY

Sharon B. Lord
The University of Tennessee
Appalachian Center for Educational Equity
Sex-Fair Model Training Program in Educational Psychology
and Guidance

A SHORT, SHORT STORY

The city:	Anywhere, U. S. A.
The happening:	A Sex Discrimination Workshop for Educators
The date:	Two years following the release of Title IX guidelines

The fragrance of freshly perked coffee drifts through the room as workshop participants exchange greetings, peruse printed materials arranged on a display table, and meander slowly toward the semi-circular arrangement of chairs where the workshop coordinator is conducting a last-minute examination of audio-visual equipment.

As she glances up from the equipment, the coordinator notices a distinguished looking man with a kind face who seems eager to speak with her. A brief interaction reveals that he is an experienced school administrator who has a genuine interest in educational equity for all children and a thorough understanding of the Title IX legislation. He explains his feelings of frustration with some of his colleagues who refuse to take issues of sexual equality seriously. The coordinator nods in agreement as the administrator points out that both women and men put children at a disadvantage through subtle, unintentional sexist behaviors.

At that moment, a gregarious teacher with a smiling face joins their conversation. In an apparent attempt to be humorous, he states, "It's about time we had a workshop on sex. I could talk about that all day. And isn't it nice that we've got such a pretty little girl to lead the workshop." Sensing a lack of appreciation of his comments, he continues. "No,

seriously though, I think it's real good work that you girls are doing; I'm on your side. I've always liked women. Why, the best teacher I ever had was a woman."

Before anyone else can respond, he continues, "Oh, there's Joyce, our assistant superintendent and Dr. Martin, our superintendent. You'll have to excuse me, I'd like to say 'Hi' to them. Hope the workshop goes well for you, honey. I'm not sexist, but a lot of these guys are. I've been helping my wife with the dishes for over a year now. Well, good luck." As he turns to walk away, he pats the coordinator familiarly on the shoulder.

The kind superintendent flushes with embarrassment as he states, "I wouldn't have been surprised at all if he had closed with, "Some of my best friends are women; in fact, my mother was a woman, and without her I wouldn't be here." With a sigh he closes the conversation by saying, "I hope you will share some ideas today to aid us in dealing with situations like that. You know, he really is a good person. He simply is unaware of the unconscious, sexist nature of his behavior."

This vignette contains several of the most common examples of subtle, sexist behaviors. If sexism is to ever be eradicated, educators must become aware of the factors which subtly, but certainly, put individuals at a disadvantage in interpersonal interactions. The following discussion will briefly highlight some of the most basic principles and variables which operate to make an interaction sexist, such as non-parallel language, non-reciprocal touching, and denigration through humor.

Non-Parallel Language

Linguists, such as Robin Lakoff,[1] argue that linguistic imbalances are worthy of study because they bring into sharper focus real-world imbalances and inequities. Three common instances of sexist usage of the English language occur in the use of (a) non-parallel references for males and females, (b) non-parallel titles and forms of address, and (c) the generic "he."

Non-parallel referents for males and females often reflect a non-parallel status or valuing of the two sexes. Using the word, girl, to refer to a mature, adult female has the effect of stripping her of her maturity, her wisdom, her adult status, an effect not unlike that of referring to a mature, adult black male as "hey, boy."

In a class system, it is not uncommon for members of the dominant class to attempt to "infantilize" members of the subordinate

class, to render them less powerful, through the use of referents associated with children or animals. Thus, we hear the adult woman referred to as "girl, chick, baby" in situations where the adult male would never be referred to as "boy, rooster, or baby."

In order to make our referents more parallel, we have the choice of either addressing mature women as women or adopting parallel labels for men as exemplified by the following exchange:

Administrator: "When you're finished writing the manuscript, just give it to one of our girls in the outer office to type."

Egalitarian Educator: "O.K., and when she's finished, to which one of our boys in the inner office should she return it?"

And, as for the far-fetched, left-field reasoning that argues that mature women should consider it a compliment to be called a girl, it only serves to illustrate the point that females are expected to consider youth, or seeming young, more important than being mature, competent, wise, responsible, i.e., adult. One has only to realize that males would seldom consider it a compliment to be called boy, if it stripped them of the characteristics of adulthood that yield higher pay, promotions, and status.

The use of non-parallel titles for men and women is another means of assigning them differential status. Title is defined by Webster's New Collegiate Dictionary[2] as "an appellation of dignity, honor, distinction or preeminence attached to a person or family by virtue of ranks, office, precedent, privilege, attainment, or land." Simply stated, titles designate characteristics of a person which a society deems important.

It is interesting to note that the basic characteristic designated by our most commonly used titles is sex; i.e., Mr. designates male, Ms. designates female. Until the recent introduction of the title, Ms., the available titles dictated that a woman's marital status always be indicated; thus, the non-parallel titles of

Mr. ---------- Miss
---------- and ---------- or
Mrs.

The contemporary use of the title Ms. is not an attempt to deny a woman's marital status, but rather a practice which provides parallel titles for males and females, and which assumes that a

woman's marital status is no more relevant than a male's in professional and social interactions. An alternate proposal to the use of Ms. might be to address unmarried men as Mr. and married men as Smr., creating a parallel system.

Mr. ---------- Miss

Smr. ---------- Mrs.

Some individuals attempt to argue that language discrimination is related to rank and competence rather than sex; however, this argument breaks down when one is presented the evidence that even when a woman obtains a Ph.D., she is more often than not addressed by her first name by superiors, peers, and subordinates alike.

Forms of address reflect status in society; one can't really consider herself equal when she is "Susie" among a group of "Mr.'s" or "Dr.'s." In a system which treats first names as familiar and last names as formal, the common use of women's first names is another means of stripping them of status.

The generic "he" and "man," and the use of a male pronoun system to refer to both males and females has long been recognized by feminists as another practice which puts female children at a disadvantage. It is often impossible to determine when the pronoun, he, means male exclusively and when it is being used to include both males and females. The confusion experienced by young female children is expressed clearly in the following anecdote.

> Returning home from preschool, the young girl enthusiasticly relates to her mother a story of fierce, "man-eating" sharks.
>
> The mother listens carefully and then comments, "That's scary. We'll have to be careful when we swim in the ocean."
>
> The little girl laughs and replies, "Oh, mommy, we don't have to worry. Sharks only eat men."

(Evidence enough of the linguistic confusion resulting from a generic male language system.)

If an individual is resisting the development of a non-gender pronoun system, exposure to a "generic female" language experience in which woman includes man too,can be a significant educational experience. Language reversals, as well as role-reversals, can result in seemingly trivial issues being viewed in a much more serious light.

Non-Reciprocal Touching

In a revealing study analyzing the politics of touch, Henley[3] points out that women are constantly kept in their place by many "little" reminders of their inferior status: the sexist environment, language, and nonverbal communication. Her observational study examining who initiated touch among people in public revealed that touch is a status sign, with persons of higher socio-economic status more frequently touching those of lower status; older persons touching younger; and males touching females. Henley argues that touch is analogous to the use of the first name: used reciprocally, it indicates intimacy; nonreciprocally, it indicates status.

She suggests that men should guard against using touch to assert authority, especially with women, and should not interpret women's initiation of touching as a sexual advance. Women, on the other hand, should refuse influence by touch, and become more assertive tactually when appropriate.

Denigration Through Humor

Sexism has often been referred to as the last socially acceptable form of discrimination or prejudice in Western society. Many persons who would feel uncomfortable joking about comparable issues of race or religion feel comfortable joking about women's issues or issues of sex inequality. Henley[4] points out that verbal putdowns to halt a woman in intellectual discussion or anger are often disguised as humor or compliments.

When an attempt at humor has been made regarding women, and women aren't laughing, it can be instructive to examine the motives of the "joker." Denigration and devaluing are often the motivating factors. The appropriate response to denigration through humor should be confrontation of the issue or, at the least, ignoring; laughter as a response condones the putdown.

Conclusion

The elimination of sexist interpersonal interactions will occur only after a concerted effort on the part of men and women to become aware of the subtleties of sexism, to educate others in this awareness, and to consciously adopt new language and behaviors. Individuals participate in giving away their personal power by choosing not to address or confront sexist interpersonal behaviors. In order to fully realize the benefits of legislation such as Title IX, educators must begin to assume responsibility for aiding individuals in developing assertive, humane, egalitarian language patterns and behaviors.

FOOTNOTES

[1]Robin Lakoff. Language and Woman's Place. New York: Harper and Row, 1975.

[2]Webster's New Collegiate Dictionary: A Merriam-Webster. Springfield, Massachusetts: G. and C. Merriam Company, 1976.

[3]Nancy M. Henley. "The Politics of Touch." Paper presented at American Psychological Association, 1970. In Phil Brown (Ed.), Radical Psychology. New York: Harper and Row, 1973.

[4]Nancy M. Henley. "Power, Sex, and Nonverbal Communication." Berkeley Journal of Sociology, 18 (1973-74), 1-26. Reprinted in Barrie Thorne and Nancy Henley, Language and Sex: Difference and Dominance. Rowley, Massachusetts: Newbury House, 1975.

LEGAL RAMIFICATIONS AND CONCEPTS OF TITLE IX

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Although the problem of discrimination in education had been recognized for decades, not until after 1954 did Congress focus its attention seriously upon legislative efforts to eradicate the inequities in the educational system. Although the Equal Protection Clause of the Fourteenth Amendment was sufficient as a first line defense against discriminatory practices, it was apparent that in order to guarantee full equality of educational opportunity, additional legislation was necessary. Thus, in 1964 Congress enacted the Civil Rights Act of 1964, Title VI of which prohibits discrimination on the ground of race, color or national origin under any program or activity receiving federal financial assistance. Although this law had application only in certain limited circumstances, it did provide new and supplemental remedies for the eradication of discrimination.

Subsequently, educators and students began to inform lawmakers of the special problems which women faced in the American educational process. Women not only were being denied an equal educational opportunity, but even as to those women who had had that opportunity, there was a general denial of the right to utilize their acquired skills. Consequently, late in the 1960's debate began centering around the possibility of new legislation which would prohibit sex discrimination in education. This was not the first time that Congress had debated legislation concerning sex discrimination. In 1963, Congress enacted the Equal Pay Act and in 1964, Title VII of the Civil Rights Act made sex discrimination in employment an illegal practice.[1] However, educational institutions were exempt from the

coverage of these statutes. Thus, in the public education sector, individuals who were denied equal opportunities because of their sex could look only to the Constitution for the protection of their rights. But the courts had been rather unsympathetic in cases of sex discrimination in education. Indeed, it was not until 1971 that the Supreme Court, for the first time, concluded that a sex-based classification could be unconstitutional.[2] Prior to that time, the Supreme Court had justified classifications based upon sex by relying upon women's unique physical characteristics, her maternal functions, her inability to protect herself in the market place, and, when all else failed, divine guidance. And so, the arguments which had been so persuasive in the race area were often found to be ineffective when applied to a case of sex discrimination.

This led Congress to the belief that, just as legislation had been necessary in order to supplement the guarantees of the Fourteenth Amendment in the area of race discrimination, it was going to be necessary to enact new legislation to protect individuals in the area of sex discrimination. Consequently, in 1972, Congress enacted Title IX of the Higher Education Amendments of 1972. Initially proposed in 1970 as an amendment to Title VI, Congress finally decided that independent legislation was necessary if full relief was to be provided in the educational sector. At the same time, amendments to Title VII of the Civil Rights Act of 1964 and the Equal Pay Act removed the exemptions for educational institutions. And so, by late 1972, there was legislation which prohibited sex discrimination throughout the educational process, including in many areas, overlapping remedies.

The existence of these overlapping remedies has generated much confusion. Practices which may be permissible under one statute may still be held to violate other acts. In addition, a person who believes that her or his rights have been violated is free to pursue each remedy independently, even if the result is conflicting rulings on each of the various claims. International Union of Electrical Workers v. Robbins & Myers, ____ U. S. ____, 97 S. Ct. 441 (1976). As a result, administrators who are faced with overseeing the compliance efforts of their institutions must insure that their policies meet not only the mandates of one enactment, but comply

with the mandates of all enactments. An example of the problems created by these parallel remedies can be illustrated by examining the grievance procedure proposed by the Title IX regulations. In order for such a grievance procedure to be effective, especially in the area of claims of employment discrimination, it will be essential that that procedure be prompt. Title VII of the Civil Rights Act of 1964 requires that employees who feels discriminated against because of their sex file charges of discrimination with the Equal Employment Opportunity Commission within 180 days of the act of discrimination. Failure to file such charges will result in the permanent loss of an employee's Title VII rights. At the same time, that employee does have the right to seek a resolution of their grievance through the Title IX internal grievance procedure. However, if that procedure takes in excess of 180 days to complete, it may be ineffective in deterring any Title VII filings, as a grievant may be reluctant to rely on a system that is potentially damaging to rights granted under other statutes.

Further complicating the situation is the fact that there is a carry-over effect in civil rights cases. Issues which have been resolved in the context of one statute will have substantial effect when the same or similar issues arise under different legislation.

WHAT IS DISCRIMINATION

There is nothing inherently illegal about the process of discriminating. Every time a legislator makes a decision, it requires discriminating between two or more groups or interests which may have legitimate claims. Consequently, what is it that makes discrimination illegal? During much of the early development of civil rights law discrimination became illegal only when it was accompanied and inspired by an element of prejudice. Thus, the state of mind of the discriminator became relevant. However, in Griggs v. Duke Power Company, 401 U. S. 424, 91 S. Ct. 849 (1971), the Supreme Court developed a new analytical approach to discrimination. Interpreting Title VII of the Civil Rights Act of 1964, the Court concluded that the mental element of prejudice was no longer relevant or necessary before there could be a finding of discrimination. It was the Court's

view that Congress, when enacting Title VII, was concerned with the consequences of an employer's practices and not simply the motivations. Consequently, what was to become important was the "disparate impact" which a practice would have. Although a practice could be neutral on its face, if it could be shown statistically that it had the effect of denying rights to substantially more blacks than to whites, that practice was discriminatory. Only if it could be shown that the practice was necessary for the successful performance of a job and that there was no less discriminatory alternative means to achieve that end could the practice be continued. And so, the touchstone for discrimination became: Is a practice, which has a disparate impact upon a protected class necessary to successful performance?

At the same time this theory of disparate impact was taking hold in the area of constitutional litigation. Most notably in the area of desegregation, court orders founded primarily upon a mere statistical imbalance became commonplace. However, this interpretation may be in the process of being narrowed by the Court. Most recently the Court has suggested that in constitutional cases disparate impact is not enough to establish the unconstitutionality of a practice. It must also be shown that the policy that is being challenged was a purposeful device meant to penalize and limit the opportunities of a protected class. Washington v. Davis, ____ U.S. ____, 96 S. Ct. 2040 (1976). However, until the Supreme Court reverses its decision in Griggs, it must be concluded that the statutory standard today with which one must comply is a disparate impact standard. That clearly is the standard that is at work under Title IX and the regulations enacted by HEW to enforce that Title.

RECENT CASE LAW AFFECTING TITLE IX

Because of the carry-over effect from one statutory provision to another, case law, particularly that at the Supreme Court level, becomes very relevant to an interpretation of similar statutes. Consequently, when considering the regulations under Title IX, one cannot ignore the recent case of Gilbert v. General Electric Company, ____ U. S. ____, 97 S. Ct. 401 (1976). In Gilbert, the Court was presented for the second time with a case challenging the legality of

excluding pregnant women from employment related disability plans. In the first case, Geduldig v. Aiello, 417 U. S. 484, 94 S. Ct. 2485 (1974), the Court was asked to determine whether or not California's disability insurance scheme was unconstitutional. There the Court concluded that: "[w]hile it is true that only women can become pregnant, it does not follow that every legislative classification concerning pregnancy is a sex-based classification . . . . Absent a showing that distinctions involving pregnancy are mere pretexts designed to effect an invidious discrimination against the members of one sex or the other, lawmakers are constitutionally free to include or exclude pregnancy from the coverage of legislation . . . ." The Court's decision in Gilbert further expanded this concept. Although based upon Title VII, the Court took much guidance from the Geduldig decision. The Court concluded that the mere exclusion of pregnancy-related disabilities from coverage was not discrimination, even though this under inclusion has a disparate impact upon women. The Court did conclude, however, that if it could be shown that the distinction involving pregnancy was a mere pretext designed to effect an invidious discrimination, it would be presented with a different case.

The effect of Gilbert has been widespread. Questions immediately arose as to whether or not the Gilbert decision meant that the regulations of HEW relating to the treatment of pregnant women would continue to be enforced by the Office for Civil Rights. In a letter dated January 10, 1977, to Ms. Margaret Dunkle, the Office for Civil Rights reaffirmed its position that Section 86.57 of the regulations, which requires that all disabilities due to pregnancy be treated as temporary disabilities, will continue to be enforced by that Office. This position is a basically sound one. In Gilbert the Supreme Court refused to follow the guidelines of the Equal Employment Opportunity Commission primarily because those substantive guidelines had not been issued pursuant to statutory authority. However, the Title IX regulations, which are substantive in nature, were approved by Congress and the President. Thus, a strong argument can be made that contrary to the Equal Employment Opportunity Commission regulations, the Title IX regulations do reflect the intent of Congress. A similar approach has been taken by the courts in New York State following the Gilbert decision. Brooklyn Union Gas Co. v. Appeal Board, 14 FEP Cases 42 (N.Y. Ct. of App. 1976). Consequently, until further inter-

pretative case law develops, HEW's position is that the Gilbert decision is not controlling as to those institutions receiving federal financial assistance.

Another employment case which has significance to Title IX issues is Harrington v. Vandalia-Butler Board of Education, 418 F. Supp. 603 (S. D. Ohio 1976). In Harrington the Plaintiff complained that, because she was assigned to teach physical education to girls in the girls' facility, and because this facility was substantially inferior to the boys' facility (to which men were assigned to teach) she was being denied her right to equal employment opportunity. The Court, in finding a violation of Title VII and awarding the Plaintiff $6,000, concluded that a school board violates Title VII when it assigns female teachers who perform the same services as male teachers to facilities that are inferior to those available to the males and which, therefore, handicap the teacher's ability to supervise and teach. Clearly the effect which this decision will have upon the athletic and physical issues under Title IX is very apparent.

TITLE IX LITIGATION

Although most people believe that Title IX did not become effective until the adoption of the regulations in 1975, that belief is erroneous. Title IX became the law in 1972 and immediately thereafter cases began to be filed raising Title IX questions. In Hickey v. Black River Board of Education, C 73-889 (N. D. Ohio 1973), the question was raised whether or not a school board could deny access to industrial arts classes to seventh and eighth grade females and deny access to home economics to seventh and eighth grade males. At the time that the Hickey case was brought, of course, Section 86.34 of the regulations had not been written. In spite of that lack of guidance, the Hickey case resulted, in less than one week, in a journal entry of settlement which opened all industrial arts and home economics classes to all seventh and eighth grade students, regardless of their sex.

An issue not raised in Hickey, but which is attracting a great deal of attention today, is the question of whether or not a private individual can pursue his or her Title IX rights independently through

the federal courts or whether the administrative procedure provided by HEW is the only course available to aggrieved individuals. In Cannon v. The University of Chicago, 12 EPD ¶ 11175 (7th Cir. 1976), it has been held that no such private right of action exists, although HEW has unequivocally stated that such a private right was intended to exist. The Court in Cannon found most compelling the legislative history behind Title IX which does not indicate an intent to create such a right.[3]

Meanwhile in Cleveland the case of Piascik v. Cleveland Museum of Art, 14 FEP Cases 33 (N. D. Ohio 1976), has reached a contrary conclusion. In Piascik a female applicant for the position of security guard alleged that she had been denied employment because of her sex. Although the Court concluded that there was no sex bias in the Museum's hiring practices, it did so only after having considered the question of whether or not a private right of enforcement existed as to Title IX. Finding that the Museum received federal financial assistance for an educational program which it operates in conjunction with a local school system, and also that the curators of that Museum perform certain teaching functions for students enrolled at a local university, the Court determined that the Museum was covered by the mandates of Title IX. This conclusion was reached in spite of the fact that no federal monies were utilized by the Museum to pay security guards--the program which the Plaintiff was challenging. Having found the Museum to be a recipient for purposes of Title IX, it turned then to the question of whether or not a private right to proceed to federal court to protect these Title IX rights existed. The Court concluded that the failure to find such a private right would leave individuals who were aggrieved by allegedly discriminatory practices with no effective remedy and thus would cripple Congress' efforts to insure sexually equal educational opportunity. Thus the Court concluded that a private right of action was necessary in order for the statute to have its fullest effect.

In a different vein are cases presently pending which directly challenge the authority of HEW to issue the implementing regulations. In National Collegiate Athletic Association v. Matheus, 76-32-C2 (D. Kan. 1976), the N. C. A. A. is arguing that the regulations as promulgated by HEW go beyond the permissible scope of Title IX and,

therefore, are unconstitutional. Their arguments basically are that the programs operated by the N.C.A.A. are not educational programs or activities and that these programs receive no direct federal financial assistance as they are self supporting. It can be argued, of course, that the Piascik decision, discussed earlier, stands for the principle that the federal financial assistance need not go directly to the program which is being regulated by HEW. In addition, examination of Title VI which contains expressed limitations on its effectiveness to those programs which actually receive federal funds indicate that if Congress had intended the result argued by the N.C.A.A., it certainly knew how to write a statute to achieve that end. Thus, the failure to include such a provision in Title IX could indicate that the N.C.A.A.'s argument is contrary to Congressional intent.

Also of relevance in this case is Regents of the University of Minnesota v. National Collegiate Athletic Association (D. Minn. Dec. 2, 1976), 4-76-Civ-468, where the federal court in Minnesota concluded that indeed participation in intercollegiate athletics was an educational activity significant to the full development of many students. In addition, because of the potential which was found to exist for a remunerative career in athletics, the court concluded that students had a property right in being able to compete interscholastically and, therefore, could not be excluded from competition without a due process hearing.

In a somewhat similar proceeding, a local education agency in Ohio has brought suit against the Ohio High School Athletic Association and the State Department of Education in order to resolve an apparent conflict between the athletic association's rules and the Title IX regulations. As you are aware, Section 86.41 of the regulations provides options to local education agencies in the area of contact sports. Within this area, educational institutions are free to choose between either sex-segregated contact sports or coeducational contact sports. This Ohio School Board, confronted with a young woman who had been selected for the boys' junior varsity basketball team, concluded that in their small system where there is a limited interest on the part of the girls, where there had never been a separate program for girls basketball, and where there were high skill levels on the part of those few women who were interested, the coeducational approach may be

the most appropriate in order to provide equal opportunity. However, the Ohio High School Athletic Association, through the adoption of its rules and regulations, had essentially taken that option away from that school board and had concluded that in the area of contact sports, there could be no coeducational, interscholastic teams. The failure to comply with this rule would mean suspension of the school from the association. But, of course, as to the young woman, desirous of competing, failure to permit her to compete could mean violating her civil rights, for which the school board could be liable. Thus, through this action, the school board is seeking to have the regulations of the Ohio High School Athletic Association declared null and void and in conflict with Title IX, and to have returned to it their freedom to choose between those options provided by the regulations. At issue is not only Section 86.6 of the regulations mandating compliance with those regulations notwithstanding conflicting rules of voluntary athletic associations, but also the whole concept of local option and home rule under the regulations.

Finally, presently pending in the Supreme Court is Vorchheimer v. School District of Philadelphia, 532 F. 2d 880 (3rd Cir. 1976), cert. granted 97 S. Ct. 253 (1976), a case which could affect Title IX substantially. Vorchheimer involves a challenge to the Philadelphia School System's practice of sex-segregating the system's two superior academic high schools. Central High, the second oldest high school in the nation, is unique because of its national reputation, rich endowment and superior scientific facilities. Central limits its admissions to males. Girls' High, although also a superior school, does not share the same qualities as Central. Its admission policies are limited to girls. Susan Vorchheimer, desirous of obtaining the best education possible, sought admission to Central and was denied that admission solely because of her sex. The Philadelphia School System's practice did not violate Title IX due to the fact that the admission practices of public high schools are exempt from Title IX coverage. However, their practice potentially violates the Constitution of the United States. And, indeed, at the trial level, the federal court concluded that to deny gifted females admission to Central violated their constitutional rights. However, this decision was reversed on appeal with the Court of Appeals holding that because some educators recognized validity to a sex-segregated education and because the facilities at Girls' High were

comparable (although not equal), to those available at Central, there was no violation of the Constitution. Consequently, before the Supreme Court now is the issue of whether or not the concept of separate but equal has some place in public education. An additional issue is whether or not the Equal Educational Opportunities Act of 1974 indeed amended Title IX to outlaw the practice engaged in by Philadelphia. During the bussing controversy, Congress enacted the 1974 Education Act which provides in part that the maintenance of dual school systems in which students are assigned to schools solely on the basis of sex denies to those students the equal protection of the laws guaranteed by the Fourteenth Amendment. It is being argued that Congress, by enacting this legislation intended to prohibit sex-segregated schools at the high school level, and that the Philadelphia practice of sex-segregating their superior academic high schools is, therefore, illegal. It is expected that a decision will be reached by the Supreme Court before the close of this term in June of 1977.

CONCLUSION

It should be apparent from this short discussion that it is still too soon to predict what course litigation under Title IX will take. Case interpretations essential to the rounding out process of any statute are slow in coming. Title IX is following the course of most other statutes in that the very first cases being decided concern themselves primarily with procedural questions, as opposed to substantive questions. Consequently, recipients seeking guidance for compliance must look to case authority under similar statutes. However, with that case authority going through a period of flux, there are few definite signs which can be used as guides in structuring educational policy. And so it appears that possibly the wisest practice to be followed at this time is for recipients to read the regulations, attempt interpretation, seek advice of both legal counsel and interpretations from HEW whenever confusion arises, and, if necessary, seek legal determinations from the courts so as to establish the parameters of the Title IX requirements.

FOOTNOTES

[1] Title VII also proscribes discrimination in employment based upon race, color, religion and national origin.

[2] Reed v. Reed, 404 U. S. 71, 92 S. Ct. 251 (1971).

[3] On November 30, 1976, the United States Court of Appeals for the Seventh Circuit granted a rehearing in Cannon limited to the question of whether a private right of enforcement exists under Title IX.

TITLE IX
or
BE NICE TO UNCLE SAM'S NIECES
or
ARE REPRODUCTIVE ORGANS RELEVANT FOR EDUCATION?

by
Dr. Bernice Sandler, Executive Associate, AAC
Director, Project on the Status and Education of Women

Until very recently, sex discrimination in schools was largely unnotices, unchallenged, and unchecked. All educational institutions could legally discriminate against females as students, staff and faculty.

The 92nd Congress, (1971-72) in a little-noticed legislative explosion, articulated a national policy to end sex discrimination on the campus. Title VII of the Civil Rights Act of 1964 was amended to cover employment in all educational institutions whether or not they receive federal monies; the Equal Pay Act was amended to cover all administrative, executive and professional employees including faculty. Titles VII and VIII of the Public Health Service were amended to prohibit sex discrimination in admissions of all federally assisted programs that train health professionals; the U. S. Commission on Civil Rights was given jurisdiction over sex discrimination; and last, but certainly not least, the Congress enacted Title IX of the Education Amendments Act of 1972 to forbid sex discrimination against students and employees in

federally assisted education programs.

There was virtually no opposition to the passage of these laws by either the educational community or the public at large. Sex discrimination, once only a philosphical or moral issue, is not a legal issue as well. More charges of sex discrimination in employment have been filed against institutions of higher education than against any other industry in the country. We can expect a similar tidal wave of complaints by students against colleges and elementary and secondary schools now that the Title IX floodgates have been opened with the publication of the final Title IX regulation, which went into effect July 21, 1975.

The key provision in Title IX reads:

> No person in the United states shall, on the basis of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance ..1

Title IX covers virtually all areas of student life: admissions, financial aid, health services, sports, testing, differential rules and regulations, etc. Title IX is patterned after Title VI of the Civil Rights Act of 1964, which prohibits discrimination in all federally assisted programs on the basis of race, color and national origin. However, Title IX is narrower in that it covers only federally assisted ed-

ucation programs rather than all federally assisted programs; on the other hand, Title IX is broader in that it covers both students and employees, whereas Title VI is in most instances restricted to coverage of students.

Both Title VI and Title IX are enforced by the Office for Civil Rights of the Department of Health, Education and Welfare. Individuals and organizations can challenge any discriminatory policy or practice by writing a letter of complaint to the Secretary of HEW. They may file on their own behalf or on behalf of someone else or a group. Complaints can be filed on a class action basis, with or without specific aggrieved individuals being named. If discrimination is found, the statute requires that the government first attempt to resolve the problem through informed conciliation and persuasion.

The legal sanctions for non-compliance are identical for Titles VI & IX: the government may delay or terminate awards, or debar institutions from eligibility for future awards. Although a formal administrative hearing is required before funds can be cut off or before the institution can be debarred from future aid, no hearing is required for HEW to delay awards. Such delays in awards can occur while HEW informally "negotiates" with an institution to bring about compliance. HEW can also request the Department of Justice to bring suit in the event

of noncompliance.

Since Title IX is patterned after Title VI, precedents developed under Title VI are likely to be applied to Title IX. Individuals may have a private right to sue institutions that allegedly discriminate.[2] Therefore, it may be possible for individuals and organizations to bypass HEW and go directly into court, thus avoiding long delays.

WHICH INSTITUTIONS ARE COVERED BY TITLE IX?

Any educational institution, public or private, which receives federal monies by way of a grant, loan or contract (other than a contract of insurance or guaranty) is required to comply with Title IX. Schools at all levels are covered: preschools to graduate schools alike.

Exemptions

The statue exempts military schools only when the primary purpose is to train individuals for the military services. An institution controlled by religious organizations is exemp only to the extent that the antidiscrimination provisions of Title IX are not consistent with the religious tenets of the organization; thus, discrimination on the basis of custom or convenience is prohibited.

Title IX exempts admissions to private undergraduate institutions, pre-schools, elementary and secondary schools (other than vocational schools), and single-sex public under-

graduate institutions. Although exempt from the admissions requirements of Title IX, these schools are not exempt from the obligation to treat students in a nondiscriminatory manner in all areas other than admissions. Thus a private undergraduate school, by virtue of its admissions exemption, could legally hold down the number of women it allows to attend. However, having admitted students of both sexes (in whatever proportion), it cannot discriminate after admission on the basis of sex.[3]

The statute was amended in 1974 to exempt the membership praces of social fratertities and sororities at the post-secondary level, the Boy Scouts, Girl Scouts, Campfire Girls, Y.W.C.A., Y.M.C.A. and certain voluntary youth service organizations.[4]

WHAT CONSTITUTES DISCRIMINATION

Overt Discrimination

One of the problems encountered under Title IX and other civil rights laws as well is the answer to the question: What constitutes discrimination? Policies and practices that clearly and specifically apply to one sex are generally easy to assess as discriminatory. Admissions quotas for women, for example, or rules that require dormitory residence for women but not for men, are overtly discriminatory and a violation of Title IX. Other examples of overt discrimination are:

requiring different courses for males and females

allowing boys but not girls to be crossing guards

sponsoring a summer science camp for male students only

awarding academic credit to males, but not to females, who participate in interscholastic athletics

(All of the examples given in this paper are real)

While many of these rules and practices are often "explained" on the basis of supposed "differences" between males and females, they are nevertheless discriminatory and violate Title IX.

Sometimes you can more easily recognize the discriminatory nature of a particular overt policy or practice by substituting the word "black" for "female" and the word "white" for "men" Try it on the following:

there is an after-school bus for boys who participate in afterschool athletics. Girls have to walk or provide their own transportation.

a university health service provides team doctors for male varsity athletes, but not for women varsity athlets

boys are taught to operate audio-visual equipment; girls are not permitted to do so

at one institution, women could not use the handball courts unless a male signed up for her

women need higher grades for admission than men

females need higher grades to be admitted to a student honorary society

If it sounds as though it would be illegal for the practice to be aimed at blacks or other minorities, the practice is

likely to be illegal under Title IX.

Indirect Discrimination

The subtle and indirect forms of discrimination are far harder to identify and correct. Many of the principles developed in the courts under the Constitution and civil rights laws are used as precedents in assessing sex discrimination in education. For example, for some time, the intent to discriminate has been considered largely irrelevant in determining whether a specific policy or practice is discriminatory. In a landmark decision, the Supreme Court in Griggs v. Duke Power Co. (401 U.S. 424, 1971) noted that the intent of a policy is not what counts, it is the effect of the policy or practice that is important. Any policy or practice that is fair on its face but has a disproportunate effect on a protected class (i.e. women and minorities), and cannot be justified by business necessity, it discriminatory. While the Griggs decision occurred in connection with employment discrimination, the same principle has been utilized by the courts in other civil rights issues, and is being applied to sex discrimination in education. Indeed this principle enunciated by Chief Justice Burger who wrote the opinion for the unanimous court, is likely to be the touchstone in evaluating the more subtle forms of discrimination against women in education.

Thus at the college level, nepotism rules prohibiting the employment of spouses might well be considered a violation to Title IX, because women are more likely to be the spouse that's kept out of work. Similarly, women's groups are claiming that restrictions on part-time attendance or on part time financial aid might be a violation of Title IX because women are more likely, due to child-rearing responsibilities, to need to attend school on a part-time basis. Although part time policies are ostensibly neutral, they often have a disproportionate effect on restricting opportunities for women.

Another example of policies which at first glance seem neutral and fair would be that of giving preference in admission to a non-athletic program of activity to persons who have participated in interscholastic or inter-collegiate athletics. Such experience is often viewed as evidence of being "well-rounded" or "competitive." However, because athletic opportunities have been severely limited for females at most institutions, participation in athletics as criteria for admission or financial aid is heavily biased, even though it seems to be neutral on its face.

THE TITLE IX REGULATION[5]

The Title IX regulation, which went into effect on July 21, 1975, explains in detail, how Title IX applies to institu-

tions. It affects virtually every area involving students and employees, including recruiting, admissions (with some exceptions), financial aid, differential rules or regulations, housing rules and facilities, physical education and athletics, health care and insurance, student employement opportunities, extra-curricular activities, counseling and testing, single sex courses and programs, graduation requirements, vocational educational programs.

The employment section of the regulation covers all conditions of employment including part-time employment, maternity leave and fringe benefits. In general, the employment provisions are similar to those of other non-discrimination laws and regulations. Women's groups are highly critical of the regulation for being too weak. Some educational administrators, and some of the male athletic interests are highly critical of the regulations for being too strong. Others are simply confused by the regulation.

Some highlights from the regulation follow.[6]

Affirmative and Remedial Action

In general, the regulation does not require or forbid institutions from taking affirmative action when there is limited participation by one sex, without a specific finding of discrimination. Institutions which have previously discriminated are required to take "remedial action" to over-

come the effects of past discrimination.

What does the Regulation Require?

The regulation requires all recipients (including State Departments of Education that receive federal aid) to have done a self evaluation study, by Judy 21, 1976. Policies and practices must be examined and evaluated for sex bias; many institutions have discovered numerous examples of inadvertent discrimination.

Institutions must also set up a grievance procedure for student and employee complaints concerning sex discrimination. However, there is no requirement forcing people to use the grievance procedure; persons can file a complaint directly with HEW without using the grievance procedure.

Additionally, institutions must appoint one person to be in charge of Title IX activities. Employees, students, and parents of elementary and secondary students must also be notified that the institution has a non-discriminatory policy.

Treatment of Students

Although some schools are exempt from coverage with regard to admissions, all schools must treat their students without discrimination on the basis of sex. This includes, course offerings;[7] extracurricular activities including student organizations and competitive athletics; all benefits, ser-

vices, or provide them in a different manner, or have different rules and regulations on the basis of sex. In other words, schools cannot use sex as a category to classify students.

A school that wanted to "protect" its students by requiring only women students to sign in and out would have to apply the same rule for both sexes.

Thus, girls could not be required to take home economics unless boys were required to take it, nor could girls be excluded from courses in industrial arts. Similarly women college students could not be excluded from a criminology course because it involved working with male prisoners. Title IX does not tell an institution what it should do, only that whatever the institution does, it does the same for both sexes.

Financial Aid

In general, financial aid, including scholarships, loans, grant-in-aid, work-study programs and fellowships cannot be restricted to one sex, nor can criteria be different for each sex.

Thus, offering a woman a loan, and giving a comparably qualified male a fellowship, would be a violation. Denying or limiting financial aid to married women (while not similarly denying such aid to married men), or offering financial aid to married women and married men on a different basis would also be illegal. At some institutions, financial aid com-

mittees have automatically assumed that a married woman needs less assistance because he is "head of the household." While this assumption may be correct in some instances it is obviously not correct in all instances.

Policies such as these which are based on assumptions about women or girls as a group are likely to come under question: individuals must be considered on the basis of their individual capabilities and qualifications, and not on the basis of characteristics attributed to the group.

Single sex scholarships that are established by a will, bequest or trust are nevertheless allowed; however institutions with such scholarships must follow a complicated pooling procedure to ensure that there is no sex discrimination in awarding financial aid. As a result of that procedure, institutions in some instances may have to provide additional funds to "match" the single sex restricted awards.

Counseling

The regulation prohibits discrimination in counseling and guidance. If a school finds that a class is disproportionately female (or male) it must make sure that it's not a result of sex bias in counseling or testing. Counselors encouraging girls to take one course (such as home economics) while encouraging boys to take another (such as industrial arts) are violating Title IX.

Schools cannot use separate tests or other materials which permit different treatment, unless the different materials cover the same occupation and interest and use of the different materials is shown to be essential to remove sex bias.

Thus, using the old forms of the Strong Vocational Interest Blank with it's separate blue and pink forms in prohibited, but materials encouraging women to consider engineering would be allowed.

Institutions are required to develop an internal procedure to insure that their materials are not sex biased.

Marital and Parental Status

Institutions cannot treat students differently in terms of actual or potential marital or parental status, nor can they ask marital status for admission purposes.

If an institution wants to include all married students it could do so, but it could not exclude only married females while it allowed married males to attend.

Again, Title IX doesn't tell you what to do, it only says whatever you do, you must be fair.

Pregnant Students

Schools must treat pregnancy related disabilities in the same way it treats any other temporary disability in medical plans, or benefit policies it offers to students. Pregnancy must be treated as a justification for leave if the student's

physician considers it necessary. A student cannot be required to have a physician's note certifying her ability to stay in school unless the institution requires a physician's certification for students with other conditions.

Title IX permits institutions to maintain separate living facilities for each sex, although housing for students of both sexes on the whole must be comparable in quanity, quality and cost ot the student. Housing regulations cannot be different for each sex.

It is illegal therefore to charge both sexes the same housing fee but to provide maid service only to male students, or to provide different security provisions such as guards or locks, to only one sex.

For many years, some institutions have said they would be "glad" to have more women, but they just didn't have enough dorms for women, who were required to live on campus. Male students could live anywhere they wanted. Dormitory space might have to be reallocated. However, most dormitories, like most apartments, are not built any differently for one sex or the other. When Yale "converted" its formerly all male residences to accomodate females, they simply added new locks and full length mirrors. As more women were admitted, they no longer added the full length mirrors, and they gave everyone new locks. As for urinals, women who live in former-

ly all-male quarters tell me that they make marvelous planters.

Title IX does not require integrated locker rooms, bathrooms nor co-educational housing. However, a school could not use lack of facilities or housing as an artificial excuse to exclude or limit participation by women.

Some facilities might hav e to be reallocated, partitions might have to be built, and some facilities might have to be shared, such as on an alternating basis.

Textbooks and Curriculum

This area is not covered by the regulation.[8]

WHAT ABOUT SINGLE SEX ORGANIZATIONS AND PROGRAMS UNDER TITLE IX?

Programs Operated by Educational Institutions

With few execptions, programs operated by instituitons cannot provide different benefits or services, or treat students differently on the basis of sex. However, programs aimed at women need not be abolished, although some modifications may be needed.[9]

Women's Studies Courses: All such courses must be open to both sexes. These courses, when open to both sexes, do not violate Title IX.

Continuing Education Programs: Programs and services which are aimed at persons continuing their education must be open to both sexes.[10]

Programs Aimed at Improving the Status of Women: Remedial programs and services provided by the institution and aimed at special groups (such as older women who have been out of school and out of the work force for a number of years) may continue, provided that men who wish to participate are not excluded. A description of such a program or course might read "This program is primarily aimed at women who have been out of the workforce and are returning to school. However, men who believe they could benefit from this service and wish to participate may do so."

Similarly, institutionally supported women's centers can continue without changing their purpose, e.g. to improve the status of women, provided that men wishing to utilize the services are allowed to do so.

Campus Committees on the Status of Women: Such committees do not violate Title IX. However, membership cannot be restricted on the basis of sex. Having a predominantly female committee would also not violate Title IX if the members had been chosen on some basis other than sex (such as their ability to contribute constructively to the committee's activities.)

Programs not Operated by Educational Institutions but Receiving Significant Assistance from Them.

Title IX covers the activities and programs of educational institutions which receive federal funds. Unless it falls under one of the exemptions listed earlier, any organization which receives "significant assistance" from such institution cannot discriminate on the basis of sex in any way, including membership, programs, services or benefits.[11] Organizations operating off campus and without significant assistance from institutions (and which do not receive direct federal funding) are not covered by Title IX.

Business and Professional Fraternities, Sororities and Societies: When the organization receives significant assistance from the institution, its membership must be open to both sexes. Similarly, its programs, services and benefits must be offered without discrimination on the basis of sex.

Women's Organizations, Such as Women's Honorary Societies, Mortar Board, Association of Women Students, etc.: When these groups receive significant assistance from the institution, their membership must be open to both sexes. However, the purpose of such groups (e.g. to develop leadership in women,) does not violate Title IX. Males who subscribe to the general purpose of the organization and wish to join cannot be denied membership because of their sex. (Programs, services and benefits must also be offered to both sexes.) In practice, few males are likely to join, and those that do are likely to be sympathetic to the aims of the group. The situation is somewhat analogous to that of a campus chapter of NAACP, a group which aims to better the status of blacks, and allows whites to join.

Women's Centers: Campus women's centers, whether operated by the institution or by students with assistance from the institution, can continue without changing their purpose (e.g. to improve the status of women.) However, their membership, programs and services must be open to both sexes. (A great many centers already allow men to use their services and to participate in their programs.)

Employment of Students

Employment of students is covered by other legislation as well.[12] Jobs within the institution as well as those handled by a student Placement Service cannot be limited to one sex, nor can there be differences in pay or conditions of employment based on sex. Thus, women dormitory managers must be paid the same as men dormitory managers. Women students cannot be excluded from night jobs or grounds maintenance jobs simply because they are female.

Athletics and Physical Education

Apart from the pressures of the organized male athletic hierarchy who find it difficult to give women a sporting chance, the sports issue is one of the most complex to deal with. More than most areas of our educational system, athletics and physical education reflect the essence of our most stereotyped cultural norms: men are "supposed" to be strong and aggressive and women are "supposed" to be weak and passive. Women and girls have generally not been encouraged to participate in physical activities partly because the traits associated with athletic excellence such as achievement, self-confidence, leadership and strength, are often seen as being in "contradiction" with the expected role females are "supposed" to play.

Another difficulty in dealing with the sports issue is that the legal precedents are far from clear. In almost all other areas of discrimination, the precedents developing out of race discrimination cases can readily and easily be applied to sex discrimination. Because of the general physical differences between men and women as a whole,[13] the principles developed in other discrimination areas do not easily apply to athletic issues, particularly in the area of competitive sports , where the issue of single-sex teams and integrated teams is one that is hardly solved by the regulation. "Separate-but-equal,"

which is a discredited theory in terms of civil rights, may have some limited validity when applied to the athletics issue.

In general the regulation makes a distinction between contact sports and other activities.

Physical education classes must be offered on an integrated basis, although schools may instruct each sex separately for participation in contact sports. Students may also be grouped by ability and performance. Many schools and colleges already offer coeducation physcial education instruction. In the past where instruction has been separate, women and girls have often had far less opportunities than their brothers.

In general schools cannot discriminate in interscholastic, intercollegiate, club or intramural athletics. Schools can offer separate teams for males and females when team selection is based on competitive skill or in contact sports, such as boxing, wrestling, rugby, football and basketball, in non-contact sports, if a school has only one team and it is single sex, the other sex must be allowed to try out for it if their overall athletic opportunities have been previously limited. In contrast, a single sex team in contact sports can remain single sex; they do not have to let persons of the other sex try out. Thus, an all male football team can remain all male. However, schools in general must provide overall equal opportunities in athletics for both sexes. A school could not,

for example, offer only contact sports for men and have no program for women.

Among the factors HEW will assess in determining whether or not equal opportunity exists, are the following:

whether the selection of sports and levels of competition "effectively accomodate the interests and abilities" of students of both sexes

equipment and supplies

scheduling of games and practice times

travel and per diem allowances

provision of locker rooms, practice and facilities

assignment and compensation of coaches

opportunity to receive coaching and academic tutoring

provision of medical and training facilities and services

publicity

Equal funding is not required, although HEW "may consider the failure to provide necessary funds" in assessing equal opportunity.

There is a 3 year transition period for high schools and colleges to comply with the physical education and athletic requirement (July 21, 1978); elementary schools were given a one year transition period (July 21, 1976.) The transition period is not a grace period or waiting time.

The sports issue is difficult to resolve because it involves a good deal of money and a good deal of power. NCAA,

the National Collegiate Athletic Association has consistently shrieked "Foul" as women have asked for a sporting chance. As one assesses the male athletic hierarchy's response to Title IX, one wonders "where have all the good sports gone?"

Certainly, in order to upgrade women's athletics it will cost money. Unless there is an influx of new monies - and that's hardly likely - the money will have to come from somewhere, such as reducing the amount that is currently being spent on men's sports. It is not unusual for example, for the budget for men's athletics to be a hundred or even a thousand times greater than the budget for women's athletics. Higher education in general is retrenching and it may well be that male athletic programs may also have to retrench. Male athletic programs, of which 9 out of 10 run at a deficit, have been highly subsidized at the expense of women's programs.

The sports issue will be an interesting one to watch since it is drawing support not only from women and girls, mothers and daughters, but also fathers and brothers - all of whom have an interest in seeing that athletic programs do not not discriminate against their daughters and sisters.

I'd like to close with a newly discovered revelation from the Bible, discovered by a woman archeologist:

And they shall beat their pots and pans into printing presses

And weave their cloth into protest banners.

Nations of women shall lift up their voice with nations of other women

Neither shall they accept discrimination any more.

That may sound apocryphal, but I suspect it may yet prove to be from The Book of Prophets, for what women are learning is the politics of change, the politics of power. They have learned that the hand that rocks the cradle can indeed rock the boat.

FOOTNOTES

1. Education Amendments of 1972, Section 901 (a), 20 U.S.C. Section 1681 (1972).

2. Although both Title VI and Title IX are silent on this issue, there have been several court cases under Title VI filed by private individuals against organizations receiving federal assistance, including one case that was heard by the Supreme Court (Lau. v. Nichols, 414 U.S. 563 (1974). However, see Cannon v. University of Chicago et al., 12 FEP Cases 70, (N. D. Ill. 1976) for a contradictory opinion.

3. Because priviate undergraduate admissions are exempt, but professional and vocational admissions are covered, it is not clear what the intent of the Congress was concerning schools which fall into both categories: private undergraduate vocational and professional schools. The statute itself is silent. HEW's policy decision was to exempt all private undergraduate vocational and professional schools, such as schools of architecture, engineering and business. However, in The Comprehensive Health Manpower Act (amending The Public Health Service Act) the Congress clearly prohibited sex discrimination in admission to vocational and professional training in the health area, even when these programs are operated by private institutions. Thus, HEW ignored Congressional precedent for the Title IX reguation to prohibit sex discrimination in admissions to private undergraduate schools that train for professions and vocations.

4. Section 3 of Public Law 93-568. The membership practices of voluntary youth service organizations are exempt when their membership has traditionally been limited to persons of one sex and principally to persons of less than nineteen years of age. Additonal exemptions contained in the 1976 Education Amendments appear in the Appendix.

5. 45 CFR Part 86. The text appears in the Federal Register June 4, 1975, page 24128. Copies may be obtained from regional HEW offices or the Office for Civil Rights, HEW, Washington, D. C. 20201

6. For a fuller account, see the regulation itself, 45 CFR Part 86, Federal Register, June 4, 1975, or "Summary of the Regulation for Title IX Education Amendments of 1972"; single copies free from PEER, 1029 Vermont Avenue, N.W., Washington, D. C. 20003.

7. High schools may offer sex education courses separately for boys and girls. They could not, however offer one course for one sex only without any course for the other sex.

8. For a critique for HEW's decision to exempt coverage of textnooks and curriculum see

9. Section 86.39 of the regulation notes that, with regard to health services, a recipient is not prohibited from providing any benefit or service which may be used by a different proportion of students of one sex than of the other. The same reasoning would hold in programs for persons returning to school and for other services aimed at those who have been out of the work force. The fact that women might be the predominant users of the service would not constitute a violation of Title IX, provided the program or service were available to both sexes.

10. Section 53 of the introductory material preceding the regulation states: "Thus, such forms of assistance as faculty sponsors, facilities, administrative staff, etc., may be significant enough to create the nexus and to render the organization subject to the regulation. Such determination will turn on the facts and circumstances of specific situations." (Federal Register, Vol. 40, No. 180, June 4, 1975, 24132.)

11. Student employment is not exempt from Title VII of the Civil Rights Act, The Equal Pay Act and Executive Order 11246. State and local anti-discrimination laws may also apply.

12. The reader is reminded that the differences between individuals of one sex are greater than the differences between the two sexes. Moreover, there is overlap between the two sexes; e.g. men as a group, but there are many women taller than individual men.

1976 AMENDMENTS TO TITLE IX
(P.L. 94-482, sec. 412)

Title IX of the Education Amendments of 1972 prohibits sex discrimination in federally assisted education programs. The Education Amendments of 1976 modify Title IX in several areas:

1. FATHER-SON AND MOTHER-DAUGHTER EVENTS

Section 412 (a) (4) of the 1976 Education Amendments includes:

> ...this section (901 (a) of Title IX) shall not preclude father-son or mother-daughter activities at an educational institution, but if such activities are provided for students of one sex, opportunities for reasonably comparable activies shall be provided for students of the other sex.

A. How is "reasonably comparable" defined?
The Office for Civil Rights at HEW has the responsibility to determine criteria for assesing which activities are "reasonably comparable." Some possible criteria follow. The examples given under each are clearly NOT "reasonably comparable."

type of activity (such as a fashion show for the female event and a career program for the male event)

where the event is held (such as holding an event for one sex in a restaurant and in a school cafeteria for the other sex)

budget (although identical are not likely to be required, particularly where the number of participants is not identical, budget disparities, especially when substantial, might be viewed as evidence of not being "reasonably comparable."

number of events (such as having several events for one sex and fex (or one) for the other)

staff support (such as having several staff work on an event for one sex, and little or no staff working on the event for the other sex.)

staff attendance and/or participation (such as having top administrative personnel attend the event for one sex and not the event for the other sex)

publicity (such as disparities in budget and staff support)

prestige (such as giving awards to male athletes at a father-son event and no awards, or fewer awards or awards of lesser value to female athletes at a mother-daughter event)

time of event (such as holding one event in the daytime and the other in the evening; having events at significantly different times such as one event related to athletic activities immediately after the athletic season ends and the other 2 months later)

duration of event (such as having a short ceremony contrasted with a longer program)

cost of event to participants (charging admission to events for one sex and charging substantially less or not for the other)

B. Are mother-son or father-daughter activities exempted from Title IX?

No. The language of the amendment does not exempt such events.

C. Do "reasonably comparable" activities have to be provided for fatherless boys or motherless girls?

No. Although such children could be excluded from "father-son" or "mother-daughter" events (provided boys and girls would both be excluded respectively), many schools will want to encourage attendance by such youngsters by allowing them to attend such events alone, with an adult of the same sex, or by making an exception so that the parent of the "wrong" sex is allowed to accompany the child. However, schools could not treat boys with one parent, e. g. if fatherless boys are allowed to attend father-son events, then mother less girls would have to be allowed to attend the comparable mother-daughter event. Given the fact that one out of every six American children lives with only one parent or neither parent, many schools will want to prevent exclusion or stigmatization of such children. Subsequently, school systems may also wish

to sponsor "parentchild" events instead of father-son or mother-daughter activities.

II. BOYS STATE/NATION AND GIRLS STATE/NATION

Section 412 (a) (4) of the 1976 Education Amendments ...this section (901 (a) of Title IX) shall not apply to (A) any program or activity of the American Legion undertaken in connection with the organization or operation of any Boys State conference, Boys Nation conference, Girls State conference, or Girls Nation conference;or

(B) any program or activity of any secondary school or educational institutional specifically for -
(i) the promotion of any Boys State conference, Boys Nation conference, Girls State conference, or Girls Nation conference; or
(ii) the selection of students to attend any such conference;

Boys State/Nation and Girls State/Nation are American Legion sponsored conferences designed to teach boys and girls how the American political system works. Delegates from schools are sent to the state and national conferences which are run like political conferences.

Before passage of this amendment to Title IX, the Office for Civil Rights of HEW had already exempted Girls State/Nation and Boys State/Nation as "voluntary youth service organizations" 45 CFR (86.14 (c). This amendment writes that executive determination into law. Unlike the amendment concerning father-son and mother-daughter activities, there is no statutory requirement that comparable activities must be provided for both sexes.

III. SCHOLARSHIPS AWARDED TO WINNERS OF BEAUTY PAGEANTS

Section 412(a)(4) of the 1976 Education Amendments ...this section (901(a) of Title IX) shall not apply with respect to any scholarship or other financial assistance awarded by an institution has received such award in any pageant in which the attainment of such award is based upon a combination of factors related to the personal appearance, poise and talent of such individual

and in which participation is limited to individuals of sone sex only, so long as such pageant is in compliance with other nondiscrimination provisions of Federal law.

The amendment is aimed at permitting colleges and universities to provide financial aid to winners of local, state and national pageants or contest such a Miss America and Junior Miss, all of which restrict participations to females only.

A. Can higher educational institutions award scholarships or other financial assistance to winners of beauty pageants where ONLY beauty and/or poise are judged?

No. Such awards must be based on a combination of all three factors: personal appearances, poise and talent.

B. Can a school award scholarships or other financial assistance on the basis of winning an all male contest (for example, football players judged on the basis of "personal appearance, poise and talent")?

No. Although "personal appearance, poise and talent" are not defined in the statute, the legislative history clearly indicates that the exemption is to be limited to "junior-miss type" pageants. (See Congressional Record, S. 14640, August 26, 1976).

C. Can a school award scholarships or other financial assistance on the basis of winning a pageant which discriminated on the basis of race, color, national origin or religion?

No. The amendment conditions the exemption from Title IX on the basis of compliance with "other non-discrimination provisions of federal law." Thus scholls could not base financial awards on winning a contest which restricted eligibility on the basis of race, color, national origin or religion.

TITLE IX: THE BASICS

Frances Dodson Rhome
Indiana University

The basis of affirmative action lies in federal laws which were predicated on the acknowledgement that racial and sexual bias have operated to exclude many persons from fair consideration of their abilities. Numerous civil rights laws cover educational institutions and overlap in many ways. Civil Rights Act of 1964 protects employment; Title VI includes public institutions and Title VII extends to professional and administrative persons. Fair Labor Standards Act, Equal Pay Act, and Executive Order 11246 as amended by 11375 affect employment in public institutions and in affirmative action requirements. Similarly, Vocational Rehabilitation Act for the Handicapped and for the Aged protect handicapped and persons between the ages of 40 to 65 years.

In 1971, the Public Health Service Act was the first act to protect students, in this case those in federally funded health training programs. Although Education Amendments were passed in 1972, the regulations for Title IX, affecting both students and employment and amending Civil Rights and Fair Labor Standards Provisions, were not approved until 1975.

NEED FOR TITLE IX

Title IX thus fits into an entire line of civil legislation aimed at eliminating discrimination and at fostering more humanistic approaches to individual respect. Title IX specifically was required to bring about change in the differential treatments afforded both sexes at all levels in educational institutions. Title IX in the absence of an Equal Rights Amendment serves presently to protect individual rights both of men and of women, because interpretation of the Fifth and Fourteenth Amendments were not uniform for both sexes nor as strictly interpreted as for race.

In the past women have been excluded from state schools and colleges, have been admitted to certain public colleges on artificial restrictive quotas, and have been denied admission to certain classes within state schools. Moreover, rules and regulations within schools differed for the two sexes: curfew hours for women and not for men; required uniform dress of middy/skirts for girls, but none for boys; unmarried mothers different than unmarried fathers; restriction in options ("Physics is too hard for girls"); requirement of "virginity" in the Prom Queen; awards and letters

to a single sex; limited participation in school patrols; differential tests in college admission processes; educational materials stressing stereotyped roles--the list is endless. No legal recourse was available for such discriminatory exclusion.

Effects of such discriminatory educational practices are apparent in the labor market. Those persons administering affirmative action directives find that although equal access and equal opportunities are provided, extensive recruitment fails to bring female candidates in any significant numbers in any but the traditional and overcrowded, lower-paying fields. Just as a surge of minorities had come forth in 1964 through 1968 for governmental and educational positions, a surge of women initially responded in 1970 to 1972 for upper management and skilled professional levels in educational, governmental, and political fields. But in 1976, the Government Accounting Office reported a wane of female (and minority) applicants. Clearly the supply issue of trained and qualified persons reflected a need for steering women into other less stereotyped fields.

The new philosophy of open education, however, has struck a peculiar backlash in public opinion. Administering of compliance programs require burdensome and costly collection of statistics, surveys, and reports; increased regulations and troubling rules; conflicting requirements of various civil rights legislation; large numbers of charges of non-compliance and excessive and sweeping investigations; lengthy and drawn out complaint cases; grumbling management whose work schedules were affected. A hardening attitude from administrators who said, "We'll hire women if you can find some who are qualified" swelled the backlash. The issues were complicated further by the conservative fears, voiced mainly by Stop-ERA Groups who saw young girls competing in physical education games or training for traditionally male jobs as dangerous "liberating" trends.

Clearly, the country needed Title IX to clarify procedures and to correct past effects of sex discrimination and restriction of individual choice.

The basic fact of the matter is that young girls and women no longer pursue solely a domestic life. Without "women's lib," without conscious social rebellion, lacking "attitudinal awareness" sessions, minus "aggressiveness training"--without that is, all of the trappings of the women's movement for the past decade,--women voluntarily have moved into new roles of full-time employment and career pursuit for a myriad of personal or social reasons. For several years the women's participation in the total workforce has hovered at the forty percent mark and continues to rise.

Remaining constant also has been the clustered numbers of women in service and clerical lower-paying positions of some eleven occupations and in the limited numbers of women seeking professional, technical, or higher managerial positions. Complex and stern monitoring systems of affirmative action regulations and civil rights directives have failed to change measurably this statistical picture.

To the schools our nation has turned for a systematic evaluation of possible bias in all pedagogical and academic processes affecting both sexes. The first year of Title IX caught administrators and faculty in a state of flux, wherein well-intentioned professionals protested that no discrimination was evident, that federal and state governments were intruding unwisely in educational affairs, that young girls did not "want" these changes, and that activist groups had simply "gone to far." Anger, worry, frustration marked the approach to a program which was judged unacceptable by large numbers.

But the first year has passed, and gradual recognition of the issues, real goals, and changing role-concepts has brought a new approach, a softening climate, and a prideful awareness of improved performance. Even the initial overbearing flood of required federal paperwork has settled into a smoother, more routine flow. This is not to say that the job is on its way. Far from it, and it is to the basic requirements that we should turn to review progress and future pursuits.

GENERAL PROVISIONS, SECTIONS 86.31 - 86.9

Those institutions receiving federal funds were required by last July to comply with these five actions:

1. A policy statement committing the institution's educational programs, employment, bargaining and contracting units to full compliance with Title IX requirements. Notification of the policy shall go to students, parents, applicants for admissions or for employment, labor and/or professional organizations, and employment bureaus.

2. Public designation of a person to coordinate compliance efforts and to investigate any complaints under Title IX.

3. Provision of a grievance procedure for the resolution of student and employee complaints of possible discrimination.

4. Completion of a self-evaluation to identify and to correct policies or practices failing to meet regulatory requirements, and

5. Completion of a statement of Assurance of Compliance to be filed with HEW and to accompany all applications for federal financial assistance.

With the exception of the Self-Study Program, other items are readily accomplishable. Using routine communication media, the policy statement is channelled to all departments, local newspapers, and to informative institutional memoranda or newsletters. Extant grievance procedures are adopted to include discriminatory charges. Appointment of an able administrator frequently means simply an added load to a person already in the system, who reviews and signs the Assurance of Compliance Form.

Self-Evaluation programs involve the entire institutional staff and require administrators to plan the self-study itself, to process and collect supportive data, to implement required changes and remedies, to maintain records, and to monitor progress. The study is retained by the institution.

Such a study reviews all student and faculty handbooks, counseling materials, and policies to assure gender-free implications. The data for admissions will include course enrollment by sex in advanced science courses, advanced mathematics, advanced placement, vocational education, industrial and business courses, cooperative business courses, physical education, music, and adult education. Work-study and compensation reports will list both sexes.

The school's central office staff will be charged with issue of policy statements to staff, students, parents, press, professional organizations and bargaining agents. Records will list Assurance of Compliance in use of testing instruments, access to courses and activities, enrollments in courses, assignment of facilities, and appointed components of teaching staff. Records to be monitored for sex-free action will include those of disciplinary action for certain offenses, of student employment, of financial assistance, and of recommendations for college scholarships or community special awards. Even more, administrators must assume leadership in educating various school and community publics, such as parent-teacher or business groups, to the philosophy of equitable education for all students.

The federal directive defines specific coverage, and as such needs not be repeated here. But a few statements may clarify some issues.

STUDENTS: ADMISSIONS, SECTION 86.21 - 23

The regulation provides for treatment of students in use of facilities, admissions, academic programs, counseling, financial and scholarships, student health and insurance benefits, and athletics. All provisions are

covered, both full-time and part-time, except those in military schools, and those in religious schools to the extent compliance is found inconsistent with the controlling religious tenets.

Title IX applies only to admission to vocational, professional, graduate and public coeducational institutions (except those public undergraduate institutions which have been traditionally and continually single-sex).

In some large school systems, secondary institutions of vocational education are or have been completely segregated on the basis of sex. In others, males and females have been admitted subject only to sex-based quotas. The prestigious all-male Boston Latin School, for example, serviced more students than the Girl's Latin School, but the court in Bray v. Lee, 337 F. Supp. 34, held that Girl's Latin could remain all-female since the academic offering was of similar quality and type. Whereas the decision in Kirstein v. Rector and Visitors of the University of Virginia, 309 F. Supp. 184 (E.D. Va. 1970) ordered admission of women to the previously all-male college of University of Virginia because the University, in terms of programs and prestige, was unique among the state's institutions of higher education.

Regulations rule that sexes within schools are not to be ranked separately, not to be subject to numerical limitations, not to receive different treatment, nor be subjected to tests or criteria which permit disproportionate disparate effect.

COURSES AND OTHER EDUCATIONAL ACTIVITIES, SECTION 86.34 - .35

Courses may not be provided separately on the basis of sex, including physical education, industrial business, vocational, technical, home economics, music, and adult education courses. Those portions of elementary school classes dealing with human sexuality may be separated by sex. In junior high courses of home economics, for example, subject matter may shift from emphasis on styling, dress, or "acting like a lady" to preparation of foods, nutrition, and general clothing tastes. Boy's Shop classes, which train to value manual labor as an end in itself and to value manual labor as an end in itself and to follow specific directions which carry through to vocational occupations, extend to girls.

COUNSELING, SECTION 86.36

Tracking programs in high school will monitor counseling so that no longer will emphasis be upon physics and mathematics for boys and literature and music for girls. Instructions both in typing and typewriter repair, both in driving and in auto repair, both in cooking and appliance repair will make both sexes more sufficient in operation and maintenance of an instrument. "Career days" will include both sexes in all activities rather than stereotyped approaches, as nurses and stewardesses for girls and engineers and business managers for boys. Curricula will adjust so that boys solely are not geared to develop marketable skills while girls indulge only in intellectual and aesthetic interest. All vocational and entrance tests will be reviewed to ascertain equitable effects.

Certain Amendments have been added:

a. Bayh Amendment to P.L. 93-568 signed December 31, 1974 amends Section 902 to exempt membership practices of tax-exempt social fraternities, sororities, YM and YWCA, Girl and Boy Scouts, Camp Fire Girls, and voluntary youth service organizations.

b. Education Amendments of 1976 (5.2657) exempts any program or activity of the American Legion or of any education institution in connection with Boys' and Girls' State, Boys' and Girls' Nation Conferences; activities of father-son or mother-daughter events if opportunities for one sex are reasonably comparable for students of the other sex; scholarships and financial assistance to a winner of a beauty pageant award.

In extra-curricular activities those schools continuing to insist on mother-daughter or father-son affairs may continue to do so, as long as both sexes may participate. Faced, however, with statistics in which one out of every six students has only one parent, the emphasis on such affairs gradually are being dropped for activities less cruel to the students. The "outstanding students" awards now replace outstanding "boy" and "girl." Role models of both sexes appear in social and academic programs.

Because physical education classes and athletic programs have been separated for a number of years, this area requires major attention. Elementary schools were required to integrate non-contact sports in the first year of Title IX and all secondary and collegiate programs will have done so by 1978. The programs should provide positive attitudes toward physical self and capability to each student, teach appreciation to both sexes of the value of physical activity and of lifetime physical fitness programs, assist in the development of concentration and self-discipline

through competition, encourage appreciation of fairplay and leadership-followership concepts, and develop skills and physical fitness. Traditional emphasis in boy's programs have been to seek the top male athletics but girl's programs currently provide all (good and poor) female experiences. The emphasis may change.

The regulation provides that no person may be subjected to discrimination based on sex in any scholastic, intercollegiate, club, or intramural athletics offered by a recipient of federal education aid.

Separate teams for each sex are permissible in contact sports or where selection for teams is based on competitive skill. In noncontact sports, when a school has a team in a given sport for one sex only and athletic opportunities for the other sex have been limited, members of the other sex must be allowed to try out for the team.

Selection of sports and levels of competition must effectively accommodate the interests and abilities of both sexes. "Accommodation" includes facilities, equipment, supplies, game and practice schedules, travel and per diem allowances, coaching and coaches' salaries, academic tutoring, housing, dining facilities, and publicity.

The totality of the program is assessed for compliance and not each sport, since institutions are not required to have duplicate programs or duplicate expenditures.

HOUSING, SECTION 86.32 - 33

Separate but equal housing provisions applies to classrooms, gymnasiums, lounges, as well as dormitories. The right to privacy is respected, but the right to equal use of all physical facilities is implicit. Hence, locker provisions, rest rooms, and special meeting rooms must be fairly and equitably assigned.

EMPLOYMENT, SECTION 86.51-61

Sex discrimination in employment is prohibited. The regulations of Title VI, VII of Civil Rights Act and of Executive Order 11246 all apply under Title IX as to equitable questioning and treatment of applicants, recruitment, search-and-screen processes, salaries, assignment of duties, grooming for promotion, upward mobility provisions, fringe benefits, and fringe duties. Title IX, however, clarifies the issues of pension benefits by ruling that either equal payments for men and women into pension funds or equal monthly benefits at retirement will be accepted.

Employment of staff and faculty mandate careful review of traditional practices leading to an unbalanced ratio of male-female employees. In some assignments rates of pay for the drama, tennis, or baseball coaches, for example, may reflect inequities which should be remedied. The promotion record may show single-sex majorities. Males may perform tasks from which females are exempted. Job descriptions may show the staff secretary should really be classified as an administrative assistant. Labor organizations may include discriminatory contractual clauses which are now unacceptable.

CONCLUSION

Title IX promises to be one of the more revolutionary pieces of legislation in educational history. As women fought for the privilege of the vote and of casting their voice in governmental decisions, so, too, have groups sought an end to all discriminatory treatment and to intentional or unintentional stereotyping and prejudice. Title IX permits in education the same individual choice or vote that the election box offers in government. Basic to the Act is the right--for boy or girl--to be an individual.

TITLE IX: EMPLOYMENT PRACTICES, GRIEVANCE PROCEDURES AND OTHER ADMINISTRATIVE CONCERNS

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The title of this conference is simple, yet well chosen: "Title IX: The Second Year." One year ago, when all of us were searching for the proper steps to take in implementing this then-new legislation, there were many misunderstandings and a general confusion over what needed to be done. At two Title IX conferences at which I was asked to speak in Ohio last year, both sponsored by the General Assistance Center of Kent State University, I sensed a feeling of bewilderment and even a suggestion of defiance among those who attended. This was shown by questions such as, "Do you mean to tell me that we have to allow women to apply for our football coaching position?"

As with most new things, this second year of post-Title IX finds most school administrators operating with at least some degree of smoothness under the precepts of the law. This is not to say that all have willingly accepted its philosophy. Some of the acceptance takes the form of resignation and some of it comes with an implementation coupled with marked disagreement. This phenomenon has always been a hallmark of civil rights legislation, and, as many minority writers and speakers have pointed out (particularly as laws affecting blacks in the 1950's and 1960's were being passed), "We don't care whether you love us or not, we just want you to follow the law."

When any new legislation of such impact as Title IX is proposed and eventually passed, there is usually a "pendulum effect" of public opinion that follows and which a good school administrator should try to understand.

First, the most militant advocates of the legislation complain that the law didn't go nearly far enough. On the other extreme are the most militant opponents, who decry the need for the legislation. After passage, the latter group will usually attempt to modify the effects of the new law by pointing out its most extreme implications. In the case of Title IX, such charges as "Boys and girls will now have to shower together" are examples of such tactics.

Sometimes, events themselves receive widespread publicity which help in this process. Thus, the news media last fall had great glee in featuring the story of the Albuquerque OCR ruling having to do with mother-daughter banquets. President Ford moved quickly to allay the order, a public furore followed, and such one-sex gatherings were made legal when the Education Amendments of 1976 were passed. In addition, the 1976 legislation allowed Boys State/Girls State activities and the offering of scholarships by colleges to single-sex beauty contest winners.

This "pendulum effect" is of vital importance to school administrators and boards of education because it is only through community consensus that they can keep their school systems running smoothly. The citizenry tends to support its schools, physically, morally and financially, when the administrator and board have instituted practices and procedures which the majority of the community condones. Thus, if there are practices of which the majority disapproves, such as the abolition of the mother-daughter banquet, it is small consolation to the public that the practice was mandated by the federal government rather than by the local authorities. Their displeasure may take the form of diminishing support of the school, the local administrator is left with the job of unpopular implementation, and so it is natural that he/she will seek relief by pressing for amendments to those sections of the legislation which are most unpopular in that particular community.

As a result of the Education Amendments of 1976, the "pendulum of attitudes" regarding acceptance of Title IX is now swinging only a few degrees to the right and left of center, rather than the wide to-and-fro swing it made at the start. The "pro-militants" have realized that the present legislation is perhaps the best they are likely to get at this time, and the "anti-militants" have realized that they must accept most of what is contained in Title IX.

Having said this as an explanation of the environment in which the school administrator must operate, the best advice at this point is to get on with the job of fully complying with Title IX. In fact, such advice hardly seems appropriate since all school districts were to have been fully in compliance since July of 1976 for all provisions of the law except secondary school physical education and athletics.

There is usually a gap, however, between legislatively mandated deadlines and full implementation, and it would be foolish to assume that all schools have put their house in order. Knowing that proper implementation takes time, a certain amount of patience and tolerance

probably has been exercised by federal enforcement authorities, and even by women whose rights are possibly being denied. The wise school administrator will not count on that patience being of long duration.

As I survey Ohio, albeit superficially, it appears to me that most school districts have encountered little difficulty and are moving rapidly along in the curriculum and instructional aspects of Title IX. It is in the employment area that some work remains to be done, as well as in the area of athletics/physical education.

In employment, most districts have altered their recruiting, advertising and job application procedures, and job descriptions have been rewritten. Two of the bigger problems lying ahead for the employment sector are likely to be those of affirmative action and equal pay for coaches.

Affirmative action, particularly in the area of women administrators, has probably come along at the worst time in the last forty years insofar as public schools are concerned. In the 1960's, when affirmative action for blacks and other minority groups became necessary, most school systems were still growing, new schools were being built, and administrative positions were being added. It thus was relatively easy to fill some of these new positions with members of these minority groups.

Now, however, it is the exception when one finds a school system which is not declining in enrollment. As a result, schools are being closed and the biggest problem facing many superintendents is what to do with the administrators they already have. Faced with that situation, it is difficult to see how affirmative action for women in the realm of school administrator positions is going to move very rapidly, even in those systems where the top administrator and board of education are sympathetic to the cause. The forecast for the next few years is not bright for anyone seeking opportunities in public education, and most persons, female and male, will be looking increasingly to the private sector as the key to their future possibilities.

Administrators will need to pay close attention to the matter of equal pay for athletic coaches. It can be predicted that there will be a plethora of court cases in the next few years over this matter. Obviously, most of the argument will center around whether or not equal work is being performed for the equal pay requested. The best advice that can be given at this point is to analyze with great care the male and female coaching positions in the school

district in an effort to determine to the extent possible the "equal work" implications.

Under Title IX, each school district must develop a grievance procedure for both students and employees. The following suggestions should be kept in mind in drawing up such a procedure:

1. Keep it simple, with few levels of appeal, to avoid long, drawn-out solutions.

2. Keep it separate from the grievance procedure which you have negotiated with your employee unions or associations.

3. After adopting the procedure, adopt an attitude of empathy which will reduce the tendency of employees to file grievances. Be a collaborator in Title IX implementation, not an adversary.

Finally, it would behoove any effective school administrator involved with personnel to become a keen student of civil rights legislation and enforcement agencies and procedures. While this can become a bewildering task, intensified because of the disagreement in federal court decisions under different jurisdictions, and also because of the occasional overlapping and confusion between various enforcement agencies, it is vital that a school administrator try to keep up with this fast-moving scene.

GIRLS ATHLETICS: A QUESTION OF PRIORITIES

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Over the past few years, public attention has shifted from a perspective of curiosity and passive interest in girls' athletics to a new and unprecedented demand for equality. Words such as sex bias, discrimination and equal opportunity appear in every interview, commentary and article which focuses on the subject of the female in athletics.

For many years volunteer professional organizations were the primary bodies promoting and developing girls' athletic programs. Most recently high school state associations, comparable to the Indiana High School Athletic Association, have developed guidelines and regulations for girls' athletics which has added strength and momentum to many programs.

Girls athletics has grown as the result of many stimuli, including the proliferation of sports on television and the "womens movement." Never before in history has the influence of Billie Jean King, Olga Korbut, Nadia Comaneci, the women superstars and the last Olympics had such a phenomenal impact on the escalation of a new magic world of athletic opportunities for females.

Although great strides have been made in our state welcoming the high school girl into the sporting circles, there still lingers blatant sexual discrimination in many public secondary schools and institutions of higher learning.

Facilities, equipment and personnel for the female program have always been regarded as less important than those of the male. Girls and women are given the poorer gymnasium and field space which is usually the cast-off facilities of the males. Females are afforded the least favorable hours for practice and operate on minimal budgets. Girls' contests and meets are usually scheduled at times different from the

boys and arranged for the afternoon with little or no publicity.

Many coaches of girls sports are presently coaching year-round for no extra pay or for less stipend than the male cross country coach. To make fair and equitable comparisons when considering coaches salaries, local school boards and administrators must take into account certain criteria:

1) The length of each sport season 2) The number of games or contests in each sport, 3) The number of student-athletes involved, 4) The amount of equipment for which each coach is responsible, 5) The pressures to which the coach is subjected.

Compensation for the coaches of girls sports must be commensurate in accordance with the coaching assignment. Women must be motivated to coach and be trained as thoroughly as any male coach.

Some schools are beginning to eliminate the additional duties for women physical educators such as cheerleaders, drill team or pep club sponsor. If these responsibilities are eliminated from the girls' physical education or athletic department, women coaches are going to be highly benefited. it would certainly help give coaches more time to work in the area of coaching. If there is anything women have run out of it has to be TIME!

Women officials are also treated with sexual difference. Women officials are paid lower fees for their services than are their male counterparts. The rationalization for such discrimination is that female games are supposedly easier to officiate becaue they have more accommodating, less skilled players. When it is suggested that female officials be paid according to male officiating standards, the excuses offered suggest that men make the money through football, basketball and other male sports, and thus they should have the right to pay officials as they wish.

Arrangements for providing meals and athletic apparel for athletes differ drastically for boys and girls. Male teams take long trips and are driven in school-owned vehicles or chartered carriers. Female teams use coaches' or parents' cars for their mode of transportation and are seldom transported any long distance, since the schedule accomodates only neighboring opponents.

Boys eat at the best restaurants and are fed the most expensive steak dinner as a form of reward for their athletic ability. Girls eat at the nearest "McDonald's" and search for inexpensive meals, since they are usually paying for at least part of their expenses out of their own purses.

Male teams are provided with a "home" and "away" uniform which is laundered and cleaned by the school. They are provided with shoes, socks, warm-up suits and even their athletic supporter. Female teams, on the other hand, may play in their gymsuit or their won clothes. They buy their own shoes and usually launder their own gear. Males are given sharp-looking team bags with the school's logo stenciled on them. Females have their own tote bags or coordinate their apparel and assemble it in a team suitcase which is either provided by the coach or has been bought by having a bake sale or car wash.

Male teams have trainers, assistant coaches, scorekeepers, water boys and team mascots. Female teams hope they will be fortunate enough to find a local official so as to avoid paying her transportation expenses.

Athletic scholarships are a recently challenged area of discriminatory practices in athletics. Athletic scholarships are not rewards for scholastic excellence, but are grants used to recruit potential athletes. Women have seldom had scholarship or grant-in-aid monies available for use even if they wanted it. Recently, women (especially college women) are suggesting that if males receive payment for playing, females should also be paid. If women are given the same financial arrangements as men, "athletic monies" will have to be split in ways not before imagined. Such an outcome would have a powerful influence on the development of women's intercollegiate sports and possibly reduce the over-emphasis of men's athletics and perhaps put the overall intercollegiate program in its proper perspective.

In most cases, a man has emerged as the athletic director or chief administrator of the athletic program. The rationale offered is that women have had little experience with the complicated area of athletics and only men have the know-how and rapport ot contend with each other in such an arena. Regardless of this concept, women must be sought as administrators of athletic programs.

What can be done to change the inequities prevalent in many athletic programs? How will it be possible to change

the status quo which is preventing 50 per cent of the population of having its proper place in the sports arena? First, attitudes must be changed. Second, equality must be legislated until it becomes an accepted hard fact of life. Attitude change is the most difficult. Nevertheless, there is a hint of changed attitudes in the air, as more and more young people are insisting that their behavior patterns not be pigeonholed into a slot of stereotyped sex roles.

The law should require that all people should be treated fairly and equitably. Pay scales for teaching, coaching and officiating should be comparable. Time schedules should reflect responsibilities and should not have gender implications. Facilities should be made available for all people on the basis of number involved rather than on the basis of the administrator's judgement of the importance of a sport or the sex of a team. Students should be involved in the decision making process of the program and be given a voice in the structure of the program.

There is little doubt that Title IX of the Education Amendments Act, which prohibits discrimination on the basis of sex under federally assisted education programs and activities, represents a major breakthrough for women in education and it certainly has particular benefits for girsls and women in sports. Regardless of Title IX it is apparent that:

1. Girls must be given opportunities for participation as boys.

2. Such activities can be provided in an orderly fashion.

3. Boys' programs have developed over a period of many years to their present level of sophistication.

4. It is unrealistic to expect that equally sophisticated girls' programs will materilize over night even as a result of Federal legislation.

For speedy development of programs a number of steps need to be taken:

1. Colleges and universities, professional associations and the IHSAA itself will have to provide opportunities and encourage women to acquire the expertise necessary for coaching and officiating at the competitive level.

2. Local and district school boards will have to recognize the need for girls' sports programs and reflect that need in their budget preparation.

3. Athletic directors and others who have administered boys' athletics in past years will have to exercise exceptional ingenuity in opening facilities and sharing resources with the new and expanding girls' program.

Finally, where inequalities do exist, where sexual discrimination is most prominent and apparent, concerned people must take the lead to effect change. Hopefully, change can be effected in education without resorting to litigation. Change should not have to be legislated or litigated. It should be based on the educational prophecy that people should be treated as individuals and given a chance to believe in their abilities. There is little doubt that the solution to the future of sports for people lies in joint effort, complete cooperation, mutual trust and a desire to treat the issues as a single problem to be solved by everyone. We can no longer think of sports programs just for boys and sports programs just for girls. There is much that can be gained from competitive sport experiences by anyone who participates.

A leading educator said: "If athletics have a place in education, they are as important for girls as for boys. If they have no general educational value, if they are just something for boys, and to entertain the townspeople and alumni, then we should get rid of them. Any administrator who is willing to support a strong boys' athletic program, and is content to have a weak girls' program, has no business calling himself an educator."

Title IX may assist in forcing girls' interschool athletics into some communities which may be dragging their feet. Title IX regulations do not provide facilities; they do not provide funding and they do not provide competent coaching - schools

must provide them. School people throughout the United States deserve a great deal of credit for expanding girls athletic programs during this decade. Many females now have increasing opportunities to participate in the educational process which competitive athletics provides.

Traditions die hard. But times are changing as many of today's young women are no longer being denied the right to develop their minds and bodies as fully as possible. They have learned to use this new freedom well -- to increase their skills, widen their horizons and enhance their femininity. The future is promising and the sky is the limit.

TITLE IX AND THE GUIDANCE COUNSELOR

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Can you solve the following riddle? A man and his son were riding in a car together on a country road. The road was very winding and wet, and at one particularly sharp curve, the man lost control of the car and it skidded into a tree beside the road. Both the man and his son were seriously injured. A passerby went for help and soon both the police and ambulances were at the scene. In the confusion of the moment, the man and his son were taken to different hospitals. The boy was immediately rushed into an operating room where a surgeon was waiting to try to save the boy's life. The surgeon took one look at the boy's face and said, "I can't operate on this child, he's my son."

Now, how can this be? At this point, stop reading for a moment and formulate an answer. When you have arrived at a conclusion, compare your explanation of the event with the one given at the bottom of the last page of this article.

We need to examine the assumptions which underlie educational policies and practices. Don't feel bad if you didn't arrive at a logical explanation for the "man and his son" riddle. Many people find it difficult to break out of their customary mode of thinking. We are all products of our socialization, which means that we have spent years carefully learning that there are certain personality traits, behaviors, interests, and jobs associated with being female and that these are different from the personality traits, behaviors, interests, and jobs associated with being male. These presumed differences are the basis of sex-role stereotyping and they have profound effects on the educational and career decisions made by and for young people in our society.

From the initial conception of our country's educational system, policies and practices were established which clearly reflected the prevailing belief that men and women were destined to play different life roles. History documents that the power of sex-role stereotypes breaks down slowly, but certainly a milestone in this process was the passage of significant legislation in 1972.

In Title IX of the Educational Amendments of 1972, Congress declared most of the blatant and subtle educational policies and practices which reflect sex-role stereotyping illegal. The basic statement of Title IX is very simple. It says:

> "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of or be subjected to discrimination in any educational program or activity which receives federal financial assistance...."

With few exceptions, Title IX covers all aspects of educational systems, including employment, curriculum, student services, extracurricular activities, and athletics.

Congress recognized the fact that many discriminatory policies and practices were based upon long-standing traditions and unexamined assumptions about the rightful role of men and women in society. For this reason, Congress built into the legislation a self-evaluation process which directed educators to: (1) examine their current policies and practices for sex bias, (2) modify any policies and practices which discriminate on the basis of sex, and (3) design strategies which remediate the effects of past discrimination. The deadline for this self-evaluation was July 1975.

In a national survey conducted in the spring of 1976, 67 percent of school superintendents and 62 percent of college presidents who responded to a questionnaire reported that an institutional self-evaluation had been initiated. It is interesting to note that in the public schools, only 49 percent of the superintendents had designated an individual responsible for the self-evaluation.[1] Still, the impact of Title IX is evident in the fact that many of the most blatant discriminatory practices have ceased. For example, formerly all male graduate and professional schools now admit students on the basis of qualifications rather than sex; all high school and vocational classes are open to males and females in policy, at least, if not in practice; and an administrative explanation for hiring a male principal like, "students need a male authority figure," is recognized as evidence of hiring discrimination. There still remains, however, a critical need for a continued process of self-evaluation and re-education. The subtle effects of sex-role assumptions and their impact on personal life choices, career decisions, employment practices, and the content of curriculum remain unchanged. Because school guidance counselors are in an ideal position to serve as change agents in education, it is especially important that they model sex-fair practices in their work.

Title IX has implications for counselors and guidance professionals which address three counseling areas.

1. Title IX prohibits discrimination in counseling or in the counseling process. Counseling and guidance professionals have long recognized the fact that personal values and attitudes affect the dynamics of the counseling process. Similarly, there is abundant evidence which documents that counselors' beliefs about the proper roles for men and women in society influences the way they counsel boys and girls.[2]

As a counselor, then, one important prerequisite for bias-free interactions with your clients is a rigorous self-evaluation of your values in relation to sex-role stereotypes. The following questions may help you begin this process.

An Attitude Questionnaire for Counselors

(1) Do you believe a woman's place is in the home?
(2) Would you respect a man less if he decided to stay at home and take care of his children while his wife worked?
(3) Do you believe that there are many jobs (i.e., school principal, construction worker, police officer) in which men should be given preference over women in being hired or promoted?
(4) Do you believe that a woman can't make long-range plans for her career because they depend on too many factors over which she has no control (i.e., husband's plans, birth of children, etc.)?
(5) Do you think boys have little need to learn to grocery shop, clean house, cook and care for children because women will take care of these tasks?
(6) Do you think girls have little need to learn to fix things around the house, do basic car maintenance, repair electrical appliances and make sound financial plans because these jobs are more appropriate for men?
(7) Are any of the following jobs unsuitable for a woman: (a) treasurer of a large company, (b) editor of a newspaper, (c) machinist, (d) airplane pilot, and (e) welder?
(8) Are any of the following jobs unsuitable for a man: (a) nurse, (b) kindergarten teacher, (c) cosmetologist, and (d) typist?
(9) Do you call the secretaries at school the "girls in the office" and refrain from calling the principal the "boy in the office?"
(10) Do you think that most women will have great difficulty in combining a career with marriage and children?
(11) Do you still use words like policeman, businessman, foreman, craftsman, sales lady, cleaning woman, lady lawyer, or male nurse?
(12) Do you think it is natural for men to have the top responsible jobs in a country?

"Yes" answers to any of the above questions indicate attitudes or values which put men and women in distinctly different roles. Translated into educational practices, these kinds of values may cause you as a counselor to provide services differently to males and females; for example, emphasizing career counseling and testing for males while stressing personal counseling for females. In addition, these values may dictate that you counsel students differently on the basis of sex, for example, suggesting advanced science courses for males and child development or home economics for girls.

To determine the impact of your values and attitudes on your professional functioning as a counselor, you should look at the proportion of males and females among your counselees and keep a statistical count by sex of the types of services you are providing (i.e., vocational counseling, personal or academic). Of equal importance to the types of services provided are the outcomes of the counseling interactions, including your recommendations and referrals.

2. Title IX prohibits discrimination in counseling and testing instruments. It is critical that guidance workers examine the counseling and testing instruments that they use and ensure that they do not limit choices for males or females. Often the very basic elements of a test will have a built-in sex bias. Item selection may represent interests or activities with which either boys or girls typically have little experience. Norming procedures are also a source of difficulty when either a predominance of males or females represent the criterion groups.

Probably the worst offenders in this category are the interest inventories that have been widely used in career counseling. They exhibit sex bias in item selection, occupational scale building and norming procedures. Because they subtly or blatantly direct students to traditional "men's" and "women's" jobs, they should be used with caution if they are used at all.

As a counselor, you should examine all the tests that you use with students and ensure that they do not limit boys or girls solely because of their sex. A positive alternative to interest inventories is the Non-Sexist Vocational Card Sort which was designed with the express purpose of providing a bias-free means of assessing vocational interests.[3]

3. Title IX prohibits discrimination in counseling materials. Most educational materials reflect sex bias through the reinforcement of traditional roles for men and women. Specifically, they show women predominantly in the home; if women are depicted outside the home, they represent a narrow range of possible occupatinal pursuits. Reciprocally, work outside the home is stressed for men, and

it is their parenting, housekeeping roles in life which are either not represented or played down. The depiction of people exhibiting personality traits different from sex-role stereotypical traits is also rare--for example, the adventurous, independent and achieving girl or the quiet, passive and shy boy.

Studies of both personal and career counseling materials reflect this same sex bias.[4] It is the ethical and legal responsibility of guidance professionals to examine the counseling materials made available to students and ensure that these materials fairly represent the broad range of life experiences which are open to boys and girls. Specific instances of sex bias include the following:

- A disproportionate representation of males or females in any life sphere (i.e., home or work, low-level jobs, management jobs, professional or technical positions, clerical jobs, nurturant jobs, etc.).
- A disproportionate representation of men directing tasks; and a corresponding disproportionate representation of women in subordinate, supportive roles.
- The portrayal of women as sex objects in pictures or statements such as an art teacher commenting to a figure drawing class, "I like drawing pretty girls better, kids."
- The emphasis on physical attractiveness as a major job requirement for receptionists, secretaries, and models.
- The implication through questions and comments that women have low intelligence; for example, questions like "how can a pretty girl like you run such a complicated machine?" in reference to a woman operating an adding machine.
- The representation of job restrictions for women because of marriage; and the corresponding omission of information on the restriction of men's family involvement because of job responsibilities.

In Summary

Providing differential counseling to males or females solely because of their sex is discriminatory and prohibited by Title IX. In practice, sex bias is often the result of the unexamined assumptions we make about the proper societal roles for men and women. The following recommendations may help you ensure that you as a counselor are presenting the full range of human options to both boys and girls and serving as a role model of sex-fair practices in your school.

- Examine your own values in relation to sex-role stereotypes and specifically analyze how these may affect your interactions with students.

- Educate yourself about the process of sex role development and the changing roles of men and women in our society.
- Explore with your students their values with respect to sex-role stereotypes and how these influence personal, academic and career decisions.
- Encourage students to explore challenging, non-traditional career options by providing non-traditional role models as resource people in the school or in non-sexist counseling materials.
- Examine your counseling tests and materials. Stop using biased materials or supplement them with references and/or discussions designed to eliminate the effect of their sex bias.
- Educate yourself about Title IX and support sex fairness in curriculum, admissions, staffing and other educational policies and practices.
- Actively support sex fairness in the career education program, with particular emphasis on broadening career options.

Answer to the "man and his son" riddle: the surgeon was the boy's mother.

FOOTNOTES

[1]"Survey Indicates Progress in Title IX Compliance," Resource Center on Sex Roles in Education: Research Action Notes, 4(1):2-3, July 4, 1976.

[2]Nancy K. Schlossberg and John J. Pietrofesa, "Perspectives on Counseling Bias: Implications for Counselor Education," Counseling Psychologist, 4:44-54, 1973.

[3]Cindy R. Dewey, "Exploring Interests: A Non-Sexist Method," Personnel and Guidance Journal, 52(5):311-315, 1974.

[4]Lous T. Heshusius-Gilsdorf and Dale L. Gilsdorf, "Girls Are Females, Boys Are Males: A Content Analysis of Career Materials," Personnel and Guidance Journal, 54(4):207-211, 1975.

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An excellent survey of articles which examine educational beliefs and practices which perpetuate sex-bias.

Stebbin, Linda B., Nancy L. Ames, and Ilana Rhodes. Sex Fairness in Career Guidance: A Learning Kit. Cambridge, Massachusetts: Abt Publications, 1975.

An excellent resource containing coverage of socialization to sex roles, its effect on career choice, recommendations for a sex-fair career guidance program, guidelines and recommendations for sex-fair use of career interest inventories and an extensive resource guide for supplementary materials. Contains a 265 page test, accompanying cassette tapes and dittos. May be purchased for $16.00 from Abt Publications, 55 Whaler St., Cambridge, Massachusetts 02138.

"Survey Indicates Progress in Title IX Compliance," Resource Center on Sex Roles in Education: Research Action Notes, 4(1):2-3, July 4, 1976.

A report on a national survey conducted by the Resource Center on Sex Roles in Education which polled school superintendents and college presidents for information related to Title IX compliance.

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KOJAK REVISITED: THE NATURE AND COSTS OF THE MALE SEX ROLE STEREOTYPE

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The glistening black Ford swerves as it rounds a corner in lower Manhattan. The car's rotating light beams a macabre red glow of the city streets. The door opens and Theo Kojak steps out. His black, stylish hat and coat seem to blend naturally into the night. Neatly sidestepping a body bleeding its life onto the pavement, Theo removes his lollypop and growls, "Is he looking for something, . . . or is he dead?" "Dead" says Crocker, and America settles in for another episode of Kojak, New York and the male sex role stereotype.

Television ratings indicate that many viewers obviously enjoy the sarcastic, rough-and-tumble antics of this New York City cop. But the ratings do not indicate that the viewers are also being offered a model of several aspects of the male sex role stereotype. Television represents a primary source for disseminating sexist portrayals of men as well as women. But television represents only one source. Family, friends, literature, and schools also play significant roles in transmitting society's expectations of appropriate male and female thought and behavior.

Although a great deal of attention has been focused on the impact of sexism on females, few individuals are aware of the nature of the male sex role stereotype. Fewer still realize the restrictive and limiting impact of this stereotype. In this article, I shall review some of the characteristics of the male stereotype, and indicate some of the penalties inflicted on men who adhere to it.

Kojak demonstrates several characteristics of the male stereotype. He is cool and unemotional. Outrageous crimes strengthen Kojak's resolve to find the perpetrator, but never move him to show that he "feels" or "shares" in the human loss. For Kojak and other men, the lessons of "supress your emotions," "never cry," "never open up," have been well learned.

And Kojak is tough, for society inculcates the need for men to show society just how tough, how manly, they can be. Police officers and military

men have always been expected to be tough, but toughness has become a male role trait in corporate organizations, government institutions, small businesses and a wide variety of other occupations. Men are supposed to be able to dish it out as well as take it. Real men hang tough.

Men are also taught to be extremely competitive, sometimes to the point of winning at any cost. Young boys who give their all to the little league, grow to become the men who are all too often willing to win at any cost, to gain that new contract, to get an early promotion to win the next election. Unbridled competition and the uncompromising need to win have been succinctly summarized by that great American philosopher, Vince Lombardi: "Winning is not the most important thing. It is the only thing."

The male stereotype also dictates appropriate careers. Kojak as a police officer is quite satisfactory, and has ample opportunity to demonstrate his tough masculinity. But Kojak the ballet dancer, or nurse, or kindergarten teacher would face social pressure demanding that he pursue a more "masculine" career.

Whatever socially acceptable occupation men choose, they all share a common evaluation, for money is used as a standard of masculinity. If the female stereotype frequently is portrayed as a sex object, than the male counterpart is often seen as a money object. Men who earn thirty thousand dollars are valued as more manly than men who earn seven thousand, as any woman looking for a "a good catch" could readily tell you. (Some astute readers might note that Kojak, as a salaried police officer, may not meet this manly criteria -- they obviously have not taken note of his well tailored clothes or his expensive jewelry. The real question should focus on how he gets the money for these costly appointments. Not that I'm suggesting that Kojak is "on the take.")

There are a variety of other components of the male stereotype. Society instructs men on the need to be mechanically inclined (with the corollary instruction that women ought not be mechanically knowledgable). And men should also be proficient in math and the sciences. Probably you can think of additional skills and attitudes which have been traditionally emphasized as important for men. But what may be less familiar to you is the cost of this stereotype, so let's turn our attention to the penalties men pay by adhering to this stereotype.

Although girls encounter societal pressures to conform to a limiting sex role stereotype, boys also find severe and in some way more rigid restrictions. For example, a young girl who plays baseball and generally participates in activities considered masculine is tolerantly termed a "tomboy," and thought to be "going through a phase." One day she will "discover boys," wear dresses, and all will be well.

But for a boy to deviate from societal norms would indeed be disatrous. Playing with dolls is usually perceived as neither a phase, nor as an appropriate preparation for fatherhood; rather it is seen as a cause for concern, perhaps indicating a need for professional help. "Sissy," "fag," and other negative terms are used in place of the neutral "Tomboy" term. (By the way, there is no non-derogatory equivalent term for boys -- did you ever hear of "Janegirl?")

As these boys grow to manhood, they fare little better as society continues to shape them to conform to the accepted male role. Men are taught to be dominant and take charge. Men who are sensitive and nuturing are often made umcomfortable, as if these qualities were unnatural for them. One result of this pressure and training is that men do not place much importance on nuturing their own children. They have become "trans-parents," leaving the raising of children to their wives. One study revealed that the father of a one year old child or younger spends less than twenty minutes a day with his child, and only thirty-eight seconds of that is involved in active interaction.

Because the male stereotype also encompasses the responsibility of being the major, and often the only, wage earner, men work and work and work. Long hours in the office, or holding down two jobs also pulls husbands and fathers away from their families. The competition involved in seeking promotions and higher salaries may also serve to alienate men from other men. In their quest for a greater income, men increase the distance between themselves and their families and friends.

One author has termed this single minded determination to earn, earn, earn a sympton of the male machine. Marc Fasteau has compared the life of contemporary man to a machine-life existence. Men are trained and taught to compete and win; to prepare to earn as big an income as possible, and to endure (if possible, ignore) the costs of this commitment. The need to support wives and children is often cited as the reason for this effort. Ironically, a man's family is often the first to be sacrificed by man's machine oriented activities.

The effective and enjoyable use of leisure time and cultural activities are also sacrificed upon the altar of this emphasis on earning. The retirement years, supposedly the fruit of all this effort, also may be short lived. After all this single-minded effort, many men find that outside of their work, they have little to bring direction and purpose to their lives. The retirement years become meaningless, and also short, for the average male lives to only sixty-seven, dying eight years sooner than the average woman. As a matter of fact, all during his life the typical man is more succeptible to contracting and succumbing to serious disease than is the typical woman.

Men who buy into the male stereotype pay other costs as well. Their career choices are restricted to acceptable male occupations, and such fields as working in a child care facility are frowned upon. Legally men involved in divorce proceedings must fight an uphill battle to gain custody of their children. And again, these are only some of the penalties of the male stereotype. How many other costs of sexism against men can you identify?

Perhaps one day in the not too distant future, there will be a television series about a man named Kojim, who finds raising his children as or more important than his job. He will be a man who has the strength to shed a tear, and the time to share his thoughts and concerns with his friends. He may share in household chores, and his wife's career is as important as his own. Perhaps Kojim enjoys being an amateur artist, and is as concerned with enjoying all the aspects of his life as he is with a never ending quest for more money. For Kojim would demonstrate the best traits of humanity and not the stereotypic and restrictive image of the masculine stereotype.

There is room in television for both Kojak and Kojim. But is television ready to confront the male sex role stereotype? Are we?

As educators, we can turn our attention to the sexist attitudes and behaviors which permeate most of our schools. Counseling practices and tests which channel boys into male sex typed careers can be eliminated. Teacher interaction patterns which award boys greater attention than girls, and also penalize male misbehavior, more harshly than female misbehavior, should be changed. Curricular materials that sex type male and female attitudes and actions can be revised. The staffing patterns in schools, which find the elementary and preschool years dominated by female teachers, while the administrative positions are populated chiefly by men, can be altered to reflect a more balanced view of both sexes in all positions. Schools, like the society at large, is replete with sexist practices, practices which Title IX attempts to eliminate.

Providing brighter and wider futures for boys and girls is one potential outcome of implementing Title IX. Educators who understand how sexism restricts the options of both boys and girls can provide leadership in implementing the spirit as well as the letter of Title IX. Educators committed to eliminating sexsim in school and society will be enlisting in the effort to increase the options and potential of all our children and providing for a brighter and freer tomorrow.

A TECHNIQUE TO ASSESS TITLE IX IMPLEMENTATION IN A SELECTED SCHOOL CORPORATION

Judy Hummel, Indiana University
Terry Ogle, Indiana University
Frank Aquila, Indiana University

During the last two years the Indiana University General Assistance Center (GAC) has received a variety of requests from school corporations focusing on Title IX needs. These requests have increased in scope since the adoption of the final regulations in July, 1975. Based on the needs of each requesting school corporation, the GAC has structured workshops, seminars, conferences, related activities and technical assistance services to meet the identified areas of concern. As part of the on-going service provided to its client school districts, the GAC has sponsored statewide conferences and numerous regional workshops related to Title IX issues and concerns. Based on it's Title IX implementation activity, appropriate information, educational aids and related technical assistance have also been disseminated.

A major Indiana school corporation recently requested the GAC to conduct a climate survey focusing on Title IX in their secondary schools. This request was based on the concern of the district's Title IX Coordinator that the district's primary Title IX focal point, the athletic arena, impeded the implementation of the total scope and nature of a sexually non-discriminatory educational program.

The GAC climate survey team was directed by Judythe Hummel and included Terry Ogle, Kat Gootee, and Ed Myers. The GAC staff and the local school district's Title IX Coordinator established objectives for the three day study. The primary objective was to ascertain the extent of knowledge and depth of understanding possessed by school personnel relative to Title IX sex discrimination. A secondary objective was to determine the degree to which the Title IX regulations have been actualized by individuals within their own school context relative to their role and function. As a culminating activity, the GAC was to conduct a workshop based on the issues which emerged as a result of the two-day Title IX assessment.

The methodology employed by the Title IX survey team to accomplish the primary and secondary objectives was the naturalistic inquiry technique as practiced by Dr. Robert Wolf of the Indiana University Center for Evaluation. Naturalistic inquiry is a methodology of data gathering and assessment which facilitates understanding of actualities, social realities and human perceptions without using written instruments of formal measurement or a pre-conceived questionaire. Formal instructions and questions often do not yield reliable data as the questions are pre-determined and not based the real issues of real people. Therefore, this method provides an open-ended exploratory, expansive inquiry mode whereby the interviewer/in-

quirer can determine the ideas and perceptions held by respondents within the respondent's natural setting. Reality is paramount because reality is by definition that which is perceived by the individual. This technique usually precludes the interviewee responding in a manner which he/she believes is the correct response as fewer cues are available for the interviewee to determine a "correct" response.

Greater depth and understanding of individual respondents is usually obtained. As issues emerge during each conversation, they are restated and checked in subsequent conversations with other respondents to determine if the issues are global in nature. Using this technique is time-consuming and requires that each conversation be of a length such that the respondents can relate their perceptions and concerns. Naturalistic inquiry limits the number of respondents who can be interviewed during the period of the study. Consequently, it is not the basic intent of this mode of inquiry to generalize and/or to evaluate, but rather to identify issues and perceptions noted by more than one respondent.

The GAC procedure utilized to employ the naturalistic inquiry methodology involved two teams of two people per team. One female and one male comprised each team. Each team visited two secondary schools, one high school and one junior high school. The high schools were visited on the first day of the

study while the junior high schools were visited on the second day. In each school the persons interviewed included administrators, counselors, classroom teachers, department heads, and students from all grade levels. There was a concerted effort to interview those individuals specifically responsible and involved with the physical education and athletic programs.

There were general guidelines devised by the survey team so as to allow for comparisons of issues and concerns. This was necessary in order to conduct the follow-up workshop. In each interview a brief explanation of the reason for the study and the follow-up workshop was provided. The team's questioning focused on identifying the extent of familiarity with the published federal Title IX regulations and appropriate subsections. An attempt was made to discuss how Title IX has impacted on the respondent in his/her area of responsibility. Additionally, questions and probes were focused on the nature of the respondent's area of service. Examples, included: (1) Equity in the administrative of discipline and in the establishment of policies and procedures (counselors and administrators); (2) Curriculum choice and selection (counselors and classroom teachers); and (3) Co-educational activities (physical education personnel and counselors).

The findings of the two-day Title IX assessment included

but were not limited to the following:

1. Most respondents demonstrated a lack of knowledge and awareness of Title IX and its effect.

2. Classroom teachers of various academic disciplines, upon our informing them of the aspects of Title IX, were not able to relate Title IX implementation or need for implementation to their classroom.

3. Building level administrators indicated some basic knowledge of Title IX and they expressed no discrepancy between building operation and the Title IX regulations.

4. Counselors indicated: 1) students of both sexes have access to all course offerings and 2) there is no vehicle to encourage students to pursue vocations previously sex-role stereotyped. Students interviewed indicated they did not realize they could elect the non-traditional sex-typed vocational offerings.

5. Physical education classes remain segregated by sex except in the case of swimming. Physical education teachers indicated that little or no preparation is taking place at the secondary building level to facilitate implementation of co-educational classes. There was some concern as to the access of facilities and equipment permitted the women physical educations teachers for their classes.

6. When discussing athletics there was concern voiced by both male and female coaches regarding the effect of Title IX "equitability" on the male athletic program. Both stated they did not want to detract from the boys' sports, but rather to increase the female athletic programs. Student respondents, primarily girls, indicated there was greater priority given to male athlectic programs.

Based on the findings gathered during the two-day interview process, a workshop was designed to reflect and respond to those issues and concerns identified by the GAC team. The format involved a variety of tasks designed to define and to clarify Title IX. The major concern for those involved in this workshop session was how to implement the regulations for the athletic arena.

The activities which opened the workshop included an overview of the regulations pertaining to athletics. The subsequent activities and tasks follow a step-like procedure, whereby the group could make appropriate determinations for implementation of Title IX in the athletic program. The steps were as follows:

1. Identify an example of sex discrimination, wherein differential opportunity and/or treatment of females/males occurs in athletics and related areas.

2. Identify efforts which have been employed to eliminate practices and policies of sex discrimination (sexism).

3. Indicate barriers which exist to eliminate sex discrimination (sexism).

4. Indicate supports and resources to eliminate sex discrimination (sexism).

5. Indicate one action in the area of athletics, which you would like to see implemented/accomplished during the next year.

   a. Indicate the barriers associated with this

action.

b. Indicate supports to accomplish this action.

c. Identify the necessary resources needed to achieve the identified end.

d. Develop a time-line for implementation of each step in the process and for each of the implementation stages.

This workshop model involved (1) clarification of the Title IX regulations (2) the overall nature and scope of Title IX (3) the identification of areas which need modification and, (4) the steps necessary (including barriers and supports) to implement an action procedure to eliminate sex discrimination (sexism). Although this workshop program focused primarily on the cognitive level, it would be very effective, if, prior to concentrating on the legal aspects and mandate of Title IX, school personnel are first exposed and involved in workshop sessions increasing awareness. During these sessions, the objective would be for participants to conclude that there is a real need for changing and modifying policies and procedures to eliminate sex discrimination. Once workshop participants recognize the necessity to eradicate vestiges of sex-role stereotypes and sexism, the group will be ready to explore the realities of Title IX as a federal mandate.

SUMMARY OF THE REGULATION* FOR TITLE IX EDUCATION AMENDMENTS OF 1972

Title IX of the Education Amendments of 1972 says:

"No person . . . shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance. . . ."

With certain exceptions, the law bars sex discrimination in any academic, extracurricular, research, occupational training or other educational program (preschool to postgraduate) operated by an organization or agency which receives or benefits from federal aid. Exempted from the provisions of Title IX are schools whose primary purpose is training for the U.S. military services or the merchant marine and educational institutions controlled by religious organizations whenever compliance with Title IX would be contrary to their religious beliefs. In addition, the "Bayh Amendment" to Title IX exempts the membership policies of the Girl and Boy Scouts, the YMCA and YWCA, Campfire Girls and other single sex "youth service organizations" whose members are chiefly under age 19. This special exemption does not apply to recreational youth groups such as Little League. Also exempted by the amendments are university-based social fraternities and sororities.

Basically, the regulation for Title IX falls into five categories: general matters related to discrimination on the basis of sex, admissions, treatment of students once they are admitted, employment and procedures.

The following summary was adapted by PEER from a summary prepared by the **Resource Center on Sex Roles in Education** of the National Foundation for Improvement of Education.

GENERAL PROVISIONS — § 86.3 - 86.9

Each recipient of federal education aid must evaluate its current policies and practices to determine whether they comply with Title IX. Each recipient must then take whatever steps are necessary to end discrimination. Institutions must keep a description of these steps on file for three years, and they must complete the evaluation and steps to overcome the effects of bias by July 21, 1976.

The regulation also requires that recipients adopt and publish grievance procedures to resolve student and employee complaints alleging discrimination prohibited by Title IX. (Victims of discrimination are not required to use these procedures — they may file a complaint directly with the U.S. Department of Health, Education and Welfare.).

Recipients (for example, a school district, state education agency, or university) must appoint at least one employee to coordinate its efforts to comply with Title IX.

The regulation requires recipients to notify students, parents, employees, applicants, unions and professional organizations that they do not discriminate on the basis of sex. Students and employees must be told how to contact the employee coordinating Title IX compliance efforts.

By Oct. 21, 1975, recipients were required to issue this notice in the local press, student and alumni newspapers, and by a letter sent directly to students and employees. After that, all announcements, bulletins, catalogs and applications must contain a notice.

ADMISSIONS — § 86.21 - 86.23

The regulation bars sex discrimination in admissions to certain kinds of institutions: those of vocational, professional, graduate, and public coeducational undergraduate institutions. Admissions to private undergraduate institutions are exempt, including admissions to private, undergraduate professional and vocational schools. HEW will look at the admissions practices of each "administratively separate unit" separately.

Specifically, the regulation bars limitations (i.e., quotas) on the number or proportion of persons of either sex who may be admitted, preference for one sex, ranking applicants separately by sex, and any other form of differential treatment by sex.

*45 CFR Part 86. The text appears in the *Federal Register*, June 4, 1975, page 24128. Copies are available from the Director, Office for Civil Rights, U.S. Department of Health, Education and Welfare, 330 Independence Ave., SW, Rm. 3239, Washington, D.C. 20201.

The recipient may not use a test or other criterion for admission which adversely affects any person on the basis of sex unless the test or criterion is shown to predict successful completion of the educational program, and unbiased alternatives are not available. Also prohibited are rules concerning parental, family, or marital status of students which make distinctions based on sex; discrimination because of pregnancy or related conditions; and asking an applicant's marital status. Recipients can ask an applicant's sex if the information is not used to discriminate.

The recipient must make comparable efforts to recruit members of each sex, except when special efforts to recruit members of one sex are needed to remedy the effects of past discrimination.

TREATMENT OF STUDENTS — § 86.31 - 86.42

General Coverage — § 86.31

Although some schools are exempt from coverage with regard to admissions, all schools must treat their admitted students without discrimination on the basis of sex. Briefly, the treatment of students section covers courses and extracurricular activities (including student organizations and competitive athletics); benefits, financial aid, facilities, housing; rules and regulations (including rules of appearance); and research. A student may not be limited in the enjoyment of any right, privilege, advantage or opportunity based on sex.

The regulation forbids a recipient to aid or perpetuate sex discrimination by providing "significant assistance" to any agency, organization or person which discriminates on the basis of sex in providing any aid, benefit or service to students or employees (with some exceptions, including the membership policies of social fraternities and sororities, Boy and Girl Scouts, YMCA and YWCA). (Significant assistance may include the provision of a facility or faculty sponsor.)

Housing and Facilities — § 86.32 and 86.33

Institutions may provide housing separately for men and women. However, housing for students of both sexes must be as a whole:

- proportionate in quantity to the number of students of that sex that apply for housing, and
- comparable in quality and cost to the student.

Institutions may not have different housing policies for students of each sex (for example, if a college allows men to live off campus, it must allow women too).

Toilets, locker rooms and shower facilities may be separated on the basis of sex, but these facilities must be comparable for students of both sexes.

Courses and other Educational Activities — § 86.34 and 86.35

Courses or other educational activities may not be provided separately on the basis of sex. An institution may not require or refuse participation in any course by any of its students on that basis. This includes physical education, industrial, business, vocational, technical, home economics, music, and adult education courses.

However, sex education is an exception: portions of elementary and secondary school classes dealing with human sexuality may be separated by sex.

In physical education classes, students may be separated by sex *within* coeducational classes when playing contact sports. Contact sports include wrestling, rugby, ice hockey, football, basketball, and any other sport "the purpose or major activity of which involves bodily contact."

Recipients must end single sex physical education classes "as expeditiously as possible," but elementary schools have until July 21, 1976, to comply fully. Secondary and post-secondary institutions must comply fully with this requirement by July 21, 1978.

Choruses may be based on vocal range or quality and may result in single-sex or predominantly single-sex choruses.

Local school districts may not, on the basis of sex, exclude any person from:

- any institution of vocational education;
- any other school or educational unit, unless the school district offers that person courses, services and facilities which are comparable to those offered in such schools, following the same policies and admission criteria.

Counseling — § 86.36

A recipient may not discriminate on the basis of sex in counseling or guiding students.

Whenever a school finds that a class has a disproportionate number of students of one sex, it must take whatever action is necessary to assure that sex bias in counseling or testing is not responsible.

A recipient may not use tests or other appraisal and counseling materials which use different materials for each sex or which permit or require different treatment for students of each sex. Exceptions can be made if different materials used for each sex cover the same occupations and they are essential to eliminate sex bias.

Schools must set up their own procedures to make certain that counseling and appraisal materials are not sex-biased. If a test does result in a substantially disproportionate number of students of one sex in a course of study or classification, the school must take action to ensure that bias in the test or its application is not causing the disproportion.

Student Financial Aid — § 86.37 and 86.31(c)

The regulation covers all forms of financial aid to students. Generally, a recipient may not, on the basis of sex:

- provide different amounts or types of assistance, limit eligibility, apply different criteria, or otherwise discriminate;
- assist through solicitation, listing, approval, provision of facilities, or other services any agency, organization or person which offers sex-biased student aid;
- employ students in a way that discriminates against one sex, or provide services to any other organization which does so.

There are exceptions for athletic scholarships and single-sex scholarships established by will or trust.

Athletic scholarships. An institution which awards athletic scholarships must provide "reasonable opportunities" for both sexes, in proportion to the number of students of each sex participating in interscholastic or intercollegiate athletics. Separate athletic scholarships for each sex may be offered in connection with separate male/female teams to the extent consistent with both the section on scholarships and the section on athletics (86.41).

Scholarships for study abroad. The regulation exempts discriminatory student assistance for study abroad (such as Rhodes Scholarships), provided that a recipient which administers or helps to administer the scholarship awards makes available similar opportunities for the other sex. (86.31(c)).

Single sex scholarships. An institution may administer or assist in the administration of scholarships and other forms of student financial aid whenever a will, trust, or bequest specifies that the aid can only go to one sex, as long as the overall effect of making sex-restricted awards is not discriminatory.

To ensure this, institutions must:

- select financial aid recipients on the basis of nondiscriminatory criteria, not the availability of sex-restricted scholarships;
- allocate sex-restricted awards to students already selected in such a fashion; and
- ensure that no student is denied an award because of the lack of a sex-restricted scholarship.

Student Health and Insurance Benefits — § 86.39

Student medical, hospital, accident or life insurance benefits, services, or plans may not discriminate on the basis of sex. This would not bar benefits or services which may be used by a different proportion of students of one sex than of the other, including family planning services.

Any school which provides full coverage health services must provide gynecological care.

Marital or Parental Status — § 86.40

The regulation bars any rule concerning a student's actual or potential parental, family, or marital status which makes distinctions based on sex.

A school may not discriminate against any student in its educational program, including any class or extracurricular activity, because of the student's pregnancy, childbirth, false pregnancy, miscarriage, or termination of pregnancy, unless the student requests voluntarily to participate in a different program or activity.

If a school does offer a voluntary, separate education program for pregnant students, the instructional program must be comparable to the regular instructional program.

A school may ask a pregnant student to have her physician certify her ability to stay in the regular education program only if it requires physician's certification for students with other physical or emotional conditions.

Recipients must treat disabilities related to pregnancy the same way as any other temporary disability in any medical or hospital benefit, service, plan or policy which they offer to students. Pregnancy must be treated as justification for a leave of absence for as long as the student's physician considers medically necessary. Following this leave, the student must be reinstated to her original status.

Athletics — § 86.41

General coverage. The regulation says that no person may be subjected to discrimination based on sex in any scholastic, intercollegiate, club or intramural athletics offered by a recipient of federal education aid.

Separate teams and contact sports. Separate teams for each sex are permissible in contact sports or where selection for teams is based on competitive skill. Contact sports include boxing, wrestling, rugby, ice hockey, football, basketball, and any other sport "the purpose or major activity of which involves bodily contact."

In *noncontact* sports, whenever a school has a team in a given sport for one sex only, and athletic opportunities for the other sex have been limited, members of both sexes must be allowed to try out for the team.

Equal opportunity. A school must provide equal athletic opportunity for both sexes. In determining whether athletic opportunities are equal, HEW will consider whether the selection of sports and levels of competition effectively accommodates the interests and abilities of members of both sexes. The Department will also consider (among other factors): facilities, equipment, supplies, game and practice schedules, travel and per diem allowances, coaching (including assignment and compensation of coaches), academic tutoring, housing, dining facilities, and publicity.

Equal expenditures are not required, but HEW "may consider the failure to provide necessary funds for teams for one sex in assessing equality of opportunity for members of each sex."

Adjustment period. Elementary schools must comply fully with the section covering athletics "as expeditiously as possible" but no later than July 21, 1976. Secondary and post-secondary institutions have until July 21, 1978, to comply fully.

Textbooks — § 86.42

The regulation does not require or abridge the use of particular textbooks or curriculum materials.

EMPLOYMENT — § 86.51 - 86.61

General Provisions — § 86.51 - 86.55

All employees in all institutions are covered, both full-time and part-time, except those in military schools, and those in religious schools to the extent compliance would be inconsistent with the controlling religious tenets.

In general, the regulation prohibits: discrimination based on sex in employment, recruitment, and hiring, whether full-time or part-time, under any education program or activity which receives or benefits from federal financial aid. It also bars an institution from entering into

union, employment agency, or fringe benefit agreements which subject individuals to discrimination.

An institution may not limit, segregate, or classify applicants or employees in any way which could adversely affect any applicant's or employee's employment opportunities or status because of sex.

The regulation prohibits sex discrimination in all aspects of employment, including employment criteria, advertising and recruitment, hiring and firing, promotion, tenure, pay, job assignments, training, leave, and fringe benefits.

If the institution is found to have practiced sex discrimination in recruitment or hiring, however, it must recruit members of the sex against which it has discriminated to overcome the effects of past discrimination.

Fringe benefits — § 86.56

Fringe benefit plans must provide *either* for equal periodic benefits for male and female employees or equal contributions for both sexes. Retirement plans may not establish different retirement ages for employees of each sex.

Marital status and pregnancy — § 86.57

An institution may not apply any employment policy concerning the potential marital, parental or family status of an employee or employment applicant which makes distinctions based on sex.

In addition, it may not have policies based on whether the employee or applicant is head of household or principal wage earner in the family.

An institution may not discriminate in employment on the basis of pregnancy or related conditions. A temporary disability resulting from these conditions must be treated as any other temporary disability for all job-related purposes, including leave, seniority, reinstatement and fringe benefits. If the employer has no temporary disability policy, pregnancy and related conditions must be considered a justification for leave without pay for a "reasonable" time period and the employee reinstated to her original or comparable status when she returns from leave.

Effect of state and local laws — § 86.58 and 86.6

The obligation to comply with this regulation is not precluded by any state or local laws.

ENFORCEMENT PROCESS — § 86.71*

In enforcing Title IX, the U.S. Department of Health, Education and Welfare will follow the procedures of Title VI of the Civil Rights Act of 1964. Under these procedures HEW conducts compliance reviews — broad-based investigations of school districts or universities initiated by HEW.

HEW must also investigate promptly complaints submitted by individuals or groups. Letters charging that discrimination has occurred may be sent to the Director, Office for Civil Rights, U.S. Department of HEW, 330 Independence Avenue, SW, Room 3256N, Washington, D.C. 20201 or to the Director of the Regional Office for Civil Rights responsible for enforcement in that state.

The Title IX procedures require educational institutions to keep records demonstrating whether they are complying with the law's requirements. Records must be available to HEW upon request.

Discrimination complaints must be filed with HEW within 180 days of the date of discrimination. Aside from this requirement, no specific time limits are set on any other proceedings. If after this investigation, HEW finds that discrimination exists, it must try to achieve voluntary compliance by the institution. Failing this, HEW may then begin administrative hearings which could lead to termination of federal financial assistance.

HEW can also refer the matter to the Department of Justice for possible federal prosecution or to state or local authorities for action under state or local laws. Under the provisions for administrative hearings, recipient institutions (but not the complainant) are granted the right to counsel and the right to appeal.

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*The full text of these procedures appears at 45 CFR §§ 80.6 - 80.11 and 45 CFR Part 81.

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Evaluate compliance with the five general provisions by answering the following questions:*

Policy Notification

- **Has a policy notification been developed containing:**
  - **a statement of institutional/agency responsibility for compliance with Title IX requirements for nondiscrimination in education programs and employment?** Yes ☐ No ☐
  - **a statement that any inquiries regarding Title IX and its application may be referred to the employee designated with responsibility for coordinating compliance or to the Director of the Office for Civil Rights, HEW?** Yes ☐ No ☐
- **Have general guidelines been disseminated to inform staff of the implications of the nondiscrimination policy and its relationship to their job responsibilities?** Yes ☐ No ☐
- **Has an initial notification of policy been made to:**
  - **students?** Yes ☐ No ☐
  - **parents of elementary and secondary students?** Yes ☐ No ☐
  - **applicants for admission?** Yes ☐ No ☐
  - **admissions recruitment representatives?** Yes ☐ No ☐
  - **employees?** Yes ☐ No ☐
  - **applicants for employment?** Yes ☐ No ☐
  - **sources of referral for employment?** Yes ☐ No ☐
  - **employment recruitment representatives?** Yes ☐ No ☐
  - **unions or professional organizations holding collective bargaining or professional agreements with the institution or agency?** Yes ☐ No ☐
- **Has notification of the policy been published in:**
  - **local newspapers?** Yes ☐ No ☐
  - **newspapers or magazines produced by the institution or agency, by students or by alumni groups?** Yes ☐ No ☐
  - **memoranda or other written communication distributed to every student and employee?** Yes ☐ No ☐
- **Has a procedure been developed to ensure ongoing publication of the policy of nondiscrimination on the basis of sex in:**
  - **course announcements?** Yes ☐ No ☐
  - **bulletins?** Yes ☐ No ☐
  - **catalogs?** Yes ☐ No ☐
  - **application forms?** Yes ☐ No ☐
  - **student recruiting materials?** Yes ☐ No ☐
  - **employee recruiting materials?** Yes ☐ No ☐

- Has a responsibility for publications review been assigned to ensure that institutional or agency publications do not suggest, by text or illustration, differential treatment of applicants, students or employees on the basis of sex except when permitted by the Regulation? Yes ☐ No ☐

Designation of Responsible Employee

- Has an employee(s) been designated as the person(s) responsible for coordinating and monitoring activities necessary for compliance with Title IX? Yes ☐ No ☐
- Have employees and students been notified of the designation of the responsible person(s) and her/his office address(es) and telephone number(s)? Yes ☐ No ☐
- Has a policy directive been developed outlining the job responsibilities of the designated person(s) and the procedures for involvement and coordination of her/his job activities with other staff activities and district programs? Yes ☐ No ☐

Grievance Procedures

- Have grievance procedures been developed or adapted for the handling of student complaints alleging violations of Title IX? Yes ☐ No ☐
- Have grievance procedures been developed or adapted for the handling of employee complaints alleging violations of Title IX? Yes ☐ No ☐
- Have administrators, employees and students been fully apprised of the procedures to be utilized in the handling of grievances related to possible Title IX violations in education programs, the treatment of students or the policies and practices covering employment? Yes ☐ No ☐

Institutional Self-Evaluation

- Has a policy directive outlining the scope and procedures to be followed for institutional self-evaluation and specifying the responsibilities of staff for data collection and review been developed and disseminated to staff? Yes ☐ No ☐
- Have forms, procedures and timelines been developed to ensure involvement of all institutional or agency units (schools, departments, colleges) in the self-evaluation process? Yes ☐ No ☐
- Has a procedure been developed for the review of all self-evaluation data to ensure that all necessary modifications and the development of systematic plans for implementing necessary remedial steps are accomplished? Yes ☐ No ☐
- Has a directive been issued requiring the maintenance of descriptions of all modifications and remedial steps on file for a three-year period? Yes ☐ No ☐

Assurances

- Have the institution's or agency's efforts toward achieving compliance with Title IX been sufficiently well-documented to provide information necessary for assurance statements which must accompany all applications for Federal assistance? Yes ☐ No ☐

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  - a statement that any inquiries regarding Title IX and its application may be referred to the employee designated with responsibility for coordinating compliance or to the Director of the Office for Civil Rights, HEW? Yes ☐ No ☐
- Have general guidelines been disseminated to inform staff of the implications of the nondiscrimination policy and its relationship to their job responsibilities? Yes ☐ No ☐
- Has an initial notification of policy been made to:
  - students? Yes ☐ No ☐
  - parents of elementary and secondary students? Yes ☐ No ☐
  - applicants for admission? Yes ☐ No ☐
  - admissions recruitment representatives? Yes ☐ No ☐
  - employees? Yes ☐ No ☐
  - applicants for employment? Yes ☐ No ☐
  - sources of referral for employment? Yes ☐ No ☐
  - employment recruitment representatives? Yes ☐ No ☐
  - unions or professional organizations holding collective bargaining or professional agreements with the institution or agency? Yes ☐ No ☐
- Has notification of the policy been published in:
  - local newspapers? Yes ☐ No ☐
  - newspapers or magazines produced by the institution or agency, by students or by alumni groups? Yes ☐ No ☐
  - memoranda or other written communication distributed to every student and employee? Yes ☐ No ☐
- Has a procedure been developed to ensure ongoing publication of the policy of nondiscrimination on the basis of sex in:
  - course announcements? Yes ☐ No ☐
  - bulletins? Yes ☐ No ☐
  - catalogs? Yes ☐ No ☐
  - application forms? Yes ☐ No ☐
  - student recruiting materials? Yes ☐ No ☐
  - employee recruiting materials? Yes ☐ No ☐

- Has a responsibility for publications review been assigned to ensure that institutional or agency publications do not suggest, by text or illustration, differential treatment of applicants, students or employees on the basis of sex except when permitted by the Regulation? Yes ☐ No ☐

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- Have forms, procedures and timelines been developed to ensure involvement of all institutional or agency units (schools, departments, colleges) in the self-evaluation process? Yes ☐ No ☐
- Has a procedure been developed for the review of all self-evaluation data to ensure that all necessary modifications and the development of systematic plans for implementing necessary remedial steps are accomplished? Yes ☐ No ☐
- Has a directive been issued requiring the maintenance of descriptions of all modifications and remedial steps on file for a three-year period? Yes ☐ No ☐

Assurances

- Have the institution's or agency's efforts toward achieving compliance with Title IX been sufficiently well-documented to provide information necessary for assurance statements which must accompany all applications for Federal assistance? Yes ☐ No ☐

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AMENDMENTS TO TITLE IX
(P.L. 94-482, sec. 412)

Title IX of the Education Amendments of 1972 prohibits sex discrimination in federally assisted education programs. The Education Amendments of 1976 modify Title IX in several areas:

1. FATHER-SON AND MOTHER-DAUGHTER EVENTS

Section 412 (a)(4) of the 1976 Education Amendments includes:

> ...this section [901(a) of Title IX] shall not preclude father-son or mother-daughter activities at an educational institution, but if such activities are provided for students of one sex, opportunities for reasonably comparable activies shall be provided for students of the other sex.

A. How is "reasonably comparable" defined?
The Office for Civil Rights at HEW has the responsibility to determine criteria for assesing which activities are "reasonably comparable." Some possible criteria follow. The examples given under each are clearly NOT "reasonably comparable."

- type of activity (such as a fashion show for the female event and a career program for the male event)
- where the event is held (such as holding an event for one sex in a restaurant and in a school cafeteria for the other sex)
- budget (although identical budgets are not likely to be required, particularly where the number of participants is not identical, budget disparities, especially when substantial, might be viewed as evidence of not being "reasonably comparable."
- number of events (such as having several events for one sex and few [or one] for the other)
- staff support (such as having several staff work on an event for one sex, and little or no staff working on the event for the other sex.)
- staff attendance and/or participation (such as having top administrative personnel attend the event for one sex and not the event for the other sex)
- publicity (such as disparities in budget and staff support)
- prestige (such as giving awards to male athletes at a father-son event and no awards, or fewer awards or awards of lesser value to female athletes at a mother-daughter event)
- time of event (such as holding one event in the daytime and the other in the evening; having events at significantly different times such as one event related to athletic activities immediately after the athletic season ends and the other 2 months later)
- duration of event (such as having a short ceremony contrasted with a longer program)

- cost of event to participants (charging admission to events for one sex and charging substantially less or not at all for the other)

B. Are mother-son or father-daughter activities exempted from Title IX?

No. The language of the amendment does not exempt such events.

C. Do "reasonably comparable" activities have to be provided for fatherless boys or motherless girls?

No. Although such children could be excluded from "father-son" or "mother-daugher" events (provided boys and girls would both be excluded respectively), many schools will want to encourage attendance by such youngsters by allowing them to attend such events alone, with an adult of the same sex, or by making an exception so that the parent of the "wrong" sex is allowed to accompany the child. However, schools could not treat boys with one parent differently than girls with one parent, e.g. if fatherless boys are allowed to attend father-son events, then motherless girls would have to be allowed to attend the comparable mother-daughter event. Given the fact that one out of every six American children lives with only one parent or neither parent, many schools will want to prevent exclusion or stigmatization of such children. Subsequently, school systems may also wish to sponsor "parent-child" events instead of father-son or mother-daughter activities.

II. BOYS STATE/NATION AND GIRLS STATE/NATION

Section 412 (a)(4) of the 1976 Education Amendments includes:

> ...this section [901(a) of Title IX] shall not apply to -
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> (A) any program or activity of the American Legion undertaken in connection with the organization or operation of any Boys State conference, Boys Nation conference, Girls State conference, or Girls Nation conference; or
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> (B) any program or activity of any secondary school or educational institutional specifically for -
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> (i) the promotion of any Boys State conference, Boys Nation conference, Girls State conference, or Girls Nation conference; or
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> (ii) the selection of students to attend any such conference;

Boys State/Nation and Girls State/Nation are American Legion sponsored conferences designed to teach boys and girls how the American political system works. Delegates from schools are sent to the state and national conferences which are run like political conferences.

Before passage of this amendment to Title IX, the Office for Civil Rights of HEW had already exempted Girls State/Nation and Boys State/Nation as "voluntary youth service organizations" 45 CFR [86.14(c)]. This amendment writes that executive determination into law. Unlike the amendment concerning father-son and mother-daughter activities, there is no statutory requirement that comparable activities must be provided for both sexes.

III. SCHOLARSHIPS AWARDED TO WINNERS OF BEAUTY PAGEANTS

Section 412(a)(4) of the 1976 Education Amendments includes:

> ...this section [901(a) of Title IX] shall not apply with

respect to any scholarship or other financial assistance awarded by an institution of higher education to any individual because such individual has received such award in any pageant in which the attainment of such award is based upon a combination of factors related to the personal appearance, poise and talent of such individual and in which participation is limited to individuals of one sex only, so long as such pageant is in compliance with other nondiscrimination provisions of Federal law.

The amendment is aimed at permitting colleges and universities to provide financial aid to winners of local, state and national pageants or contests such a Miss America and Junior Miss, all of which restrict participations to females only.

A. Can higher educational institutions award scholarships or other financial assistance to winners of beauty pageants where ONLY beauty and/or poise are judged?

No. Such awards must be based on a combination of all three factors: personal appearances, poise and talent.

B. Can a school award scholarships or other financial assistance on the basis of winning an all male contest (for example, football players judged on the basis of "personal appearance, poise and talent")?

No. Although "personal appearance, poise and talent" are not defined in the statute, the legislative history clearly indicates that the exemption is to be limited to "junior-miss type" pageants. [See Congressional Record, S. 14640, August 26, 1976].

C. Can a school award scholarships or other financial assistance on the basis of winning a pageant which discriminated on the basis of race, color, national origin or religion?

No. The amendment conditions the exemption from Title IX on the basis of compliance with "other non-discrimination provisions of federal law." Thus schools could not base financial awards on winning a contest which restricted eligibility on the basis of race, color, national origin or religion.